



















INDEX  
LEGISLATIVE ASSEMBLY  
OF ONTARIO

FOURTH SESSION OF THE TWENTY-NINTH  
PARLIAMENT

BILLS

AS INTRODUCED IN THE HOUSE  
TOGETHER WITH  
REPRINTS AND THIRD READINGS

136698

SESSION

MARCH 5th, 1974 to FEBRUARY 14th, 1975





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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act respecting the City of Belleville**

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**MR. TAYLOR**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**





BILL Pr1

1974

## An Act respecting the City of Belleville

**W**HEREAS The Corporation of the City of Belleville Preamble  
hereby applies for special legislation in respect of the  
matters hereinafter set forth; and whereas it is expedient  
to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1. In this Act,

Inter-  
pre-  
ta-  
tion

- (a) "Corporation" means The Corporation of the City of Belleville;
- (b) "council" means the council of the Corporation;
- (c) "employee" means the city clerk of the Corporation, namely Adam S. Stalker.

**2.** Notwithstanding any general or special Act, the council Retire-  
ment  
allowance  
may pass a by-law granting an annual retirement allowance, payable weekly, monthly or otherwise, to the employee during his life, if he has had continuous service for at least twenty years with the Corporation and if he,

- (a) is retired because of age; or
- (b) while in the service of the Corporation has become incapable through illness or otherwise of efficiently discharging his duties,

provided that no retirement allowance together with the amount of any pension payments payable to the employee in any year under a pension plan of the Corporation will exceed three-fifths of his average annual salary for the preceding three years of his service.

**3.** Where the council grants an annual retirement allow- Allowance  
to surviving  
spouse  
ance to the employee under section 2, the by-law may include

provision for continuing the allowance to the surviving spouse, if any, during her life, in an amount not exceeding one-half of the annual allowance payable to the employee.

Application  
of  
R.S.O. 1970,  
c. 284

**4.** Subsection 2a of section 239 of *The Municipal Act* applies *mutatis mutandis* to the spouse of the employee as if the employee had been eligible for a retirement allowance under such section 239.

Commence-  
ment

**5.** This Act comes into force on the day it receives Royal Assent.

Short title

**6.** This Act may be cited as *The City of Belleville Act, 1974*.











An Act respecting the  
City of Belleville

---

*1st Reading*

*2nd Reading*

*3rd Reading*

---

MR. TAYLOR

---

(*Private Bill*)



# **BILL Pr1**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

---

## **An Act respecting the City of Belleville**

---

MR. TAYLOR

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TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL Pr1

1974

## An Act respecting the City of Belleville

**W**HEREAS The Corporation of the City of Belleville <sup>Preamble</sup> hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1. In this Act,

<sup>Interpre-</sup>  
<sup>tation</sup>

- (a) "Corporation" means The Corporation of the City of Belleville;
- (b) "council" means the council of the Corporation;
- (c) "employee" means the city clerk of the Corporation, namely Adam S. Stalker.

**2.** Notwithstanding any general or special Act, the council may pass a by-law granting an annual retirement allowance, payable weekly, monthly or otherwise, to the employee during his life, if he has had continuous service for at least twenty years with the Corporation and if he, <sup>Retire-</sup>  
<sup>ment</sup>  
<sup>allowance</sup>

- (a) is retired because of age; or
- (b) while in the service of the Corporation has become incapable through illness or otherwise of efficiently discharging his duties,

provided that no retirement allowance together with the amount of any pension payments payable to the employee in any year under a pension plan of the Corporation will exceed three-fifths of his average annual salary for the preceding three years of his service.

**3.** Where the council grants an annual retirement allowance to the employee under section 2, the by-law may include <sup>Allowance</sup>  
<sup>to surviving</sup>  
<sup>spouse</sup>



provision for continuing the allowance to the surviving spouse, if any, during her life, in an amount not exceeding one-half of the annual allowance payable to the employee.

Application  
of  
R.S.O. 1970,  
c. 284

**4.** Subsection 2a of section 239 of *The Municipal Act* applies *mutatis mutandis* to the spouse of the employee as if the employee had been eligible for a retirement allowance under such section 239.

Commence-  
ment

**5.** This Act comes into force on the day it receives Royal Assent.

Short title

**6.** This Act may be cited as *The City of Belleville Act, 1974*.









An Act respecting the  
City of Belleville

---

*1st Reading*

March 26th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. TAYLOR

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act respecting St. Catharines Slovak Club Limited**

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**MR. JOHNSTON**

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BILL Pr2

1974

## An Act respecting St. Catharines Slovak Club Limited

**W**HEREAS Branch 31 of the Canadian Slovak League, Preamble  
 a fraternal benefit society incorporated by Special Act  
 of the Parliament of Canada, 2-3 Elizabeth II, chapter 76,  
 Stephen Reistetter, John Fejedelem, Joseph Kozela, Joseph  
 Kravec and Joseph Dobransky hereby represent that St.  
 Catharines Slovak Club Limited, hereinafter called the Cor-  
 poration, was incorporated by letters patent dated the 7th  
 day of February, 1952; that the Provincial Secretary, by order  
 dated the 12th day of August, 1965, and made under the  
 authority of subsection 2 of section 326 of *The Corporations*  
*Act*, being chapter 71 of the Revised Statutes of Ontario, 1960,  
 cancelled the letters patent of the Corporation for default in  
 filing annual returns and declared the Corporation to be  
 dissolved on the 16th day of September, 1965; that the  
 applicants are all the directors and holders of all the common  
 shares of the Corporation; that the Corporation at the time  
 of its dissolution was and is now carrying on its affairs at  
 premises known municipally as 79 Page Street, St. Catharines,  
 Ontario, being a cultural centre for the Slovak community  
 in St. Catharines and environs; and whereas the applicants  
 hereby apply for special legislation reviving the Corporation  
 and restoring to it all its assets, lands and building; and  
 whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent  
 of the Legislative Assembly of the Province of Ontario, enacts  
 as follows:

1. St. Catharines Slovak Club Limited, incorporated by  
 letters patent dated the 7th day of February, 1952, is hereby  
 revived and is, subject to any rights acquired by any person  
 after its dissolution, hereby restored to its legal position as a  
 company incorporated by letters patent, including all its  
 property, rights, privileges and franchises and subject to all  
 its liabilities, contracts, disabilities and debts as at the date  
 of its dissolution in the same manner and to the same extent  
 as if it had not been dissolved.

St. Catharines  
Slovak Club  
Limited  
revived

**Commence-  
ment**      **2.** This Act comes into force on the day it receives Royal Assent.

**Short title**      **3.** This Act may be cited as *The St. Catharines Slovak Club Limited Act, 1974*.









An Act respecting  
St. Catharines Slovak Club Limited

---

*1st Reading*

*2nd Reading*

*3rd Reading*

---

MR. JOHNSTON

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*(Private Bill)*

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# **BILL Pr2**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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## **An Act respecting St. Catharines Slovak Club Limited**

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MR. JOHNSTON

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TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL Pr2

1974

## An Act respecting St. Catharines Slovak Club Limited

**W**HEREAS Branch 31 of the Canadian Slovak League, Preamble  
 a fraternal benefit society incorporated by Special Act of the Parliament of Canada, 2-3 Elizabeth II, chapter 76, Stephen Reistetter, John Fejedelem, Joseph Kozela, Joseph Kravec and Joseph Dobransky hereby represent that St. Catharines Slovak Club Limited, hereinafter called the Corporation, was incorporated by letters patent dated the 7th day of February, 1952; that the Provincial Secretary, by order dated the 12th day of August, 1965, and made under the authority of subsection 2 of section 326 of *The Corporations Act*, being chapter 71 of the Revised Statutes of Ontario, 1960, cancelled the letters patent of the Corporation for default in filing annual returns and declared the Corporation to be dissolved on the 16th day of September, 1965; that the applicants are all the directors and holders of all the common shares of the Corporation; that the Corporation at the time of its dissolution was and is now carrying on its affairs at premises known municipally as 79 Page Street, St. Catharines, Ontario, being a cultural centre for the Slovak community in St. Catharines and environs; and whereas the applicants hereby apply for special legislation reviving the Corporation and restoring to it all its assets, lands and building; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. St. Catharines Slovak Club Limited, incorporated by letters patent dated the 7th day of February, 1952, is hereby revived and is, subject to any rights acquired by any person after its dissolution, hereby restored to its legal position as a company incorporated by letters patent, including all its property, rights, privileges and franchises and subject to all its liabilities, contracts, disabilities and debts as at the date of its dissolution in the same manner and to the same extent as if it had not been dissolved.

St. Catharines  
Slovak Club  
Limited  
revived

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

Short title

**3.** This Act may be cited as *The St. Catharines Slovak Club Limited Act, 1974*.









An Act respecting  
St. Catharines Slovak Club Limited

---

*1st Reading*

March 26th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. JOHNSTON

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

---

**An Act respecting the City of Hamilton**

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**MR. SMITH (Hamilton Mountain)**

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BILL Pr3

1974

## An Act respecting the City of Hamilton

**W**HEREAS The Corporation of the City of Hamilton, <sup>Preamble</sup>  
 herein called the Corporation, represents that the council of the Corporation did pass a resolution on the 27th day of October, 1970, under section 241 of *The Municipal Act*, being chapter 249 of the Revised Statutes of Ontario, 1960, requesting a judge of the County Court of the County of Wentworth to investigate and report on the actions and conduct of members of council, officials, agents and employees of the Corporation and any persons having a contract with the Corporation with respect to the carrying out of the construction of a new city hall; and that Stanley M. Roscoe, former architect of the Corporation during whose tenure the city hall was built was a witness before the judicial inquiry held by His Honour Judge T. L. McCombs; and whereas it is considered desirable, that the council of the Corporation have the authority to pass a by-law authorizing the Corporation to pay all or part of the legal costs and damages incurred by Stanley M. Roscoe during the inquiry; and whereas the Corporation hereby applies for special legislation for such purpose; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The council of the Corporation is hereby authorized <sup>By-law authorized</sup>  
 to pass a by-law authorizing the Corporation to pay all or part of the legal costs and damages incurred by Stanley M. Roscoe during and as a result of the judicial inquiry held from the 15th day of February, 1971 to the 22nd day of June, 1971 into the construction of the new city hall.

2. This Act comes into force on the day it receives Royal <sup>Commence-</sup>  
 Assent. <sup>ment</sup>

3. This Act may be cited as *The City of Hamilton Act*, <sup>Short title</sup>  
 1974.

An Act respecting  
the City of Hamilton

---

*1st Reading*

March 26th, 1974

*2nd Reading*

*3rd Reading*

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MR. SMITH (Hamilton Mountain)

---

*(Private Bill)*

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

---

**An Act respecting the City of Hamilton**

---

**MR. SMITH (Hamilton Mountain)**

---

*(Reprinted as amended by the Private Bills Committee)*



BILL Pr3

1974

## An Act respecting the City of Hamilton

**W**HEREAS The Corporation of the City of Hamilton, Preamble  
 herein called the Corporation, represents that the council of the Corporation did pass a resolution on the 27th day of October, 1970, under section 241 of *The Municipal Act*, being chapter 249 of the Revised Statutes of Ontario, 1960, requesting a judge of the County Court of the County of Wentworth to investigate and report on the actions and conduct of members of council, officials, agents and employees of the Corporation and any persons having a contract with the Corporation with respect to the carrying out of the construction of a new city hall; and that Stanley M. Roscoe, former architect of the Corporation during whose tenure the city hall was built was a witness before the judicial inquiry held by His Honour Judge T. L. McCombs; and whereas it is considered desirable that the council of the Corporation have the authority to pass a by-law authorizing the Corporation to pay all or part of the costs incurred by Stanley M. Roscoe during the inquiry; and whereas the Corporation hereby applies for special legislation for such purpose; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The council of the Corporation is hereby authorized By-law authorized  
 to pass a by-law authorizing the Corporation to pay all or part of the costs incurred by Stanley M. Roscoe during and as a result of the judicial inquiry held from the 15th day of February, 1971 to the 22nd day of June, 1971 into the construction of the new city hall.

2. This Act comes into force on the day it receives Royal Commence-  
ment  
 Assent.

3. This Act may be cited as *The City of Hamilton Act*, Short title  
 1974.

An Act respecting  
the City of Hamilton

---

*1st Reading*

March 26th, 1974

*2nd Reading*

*3rd Reading*

---

MR. SMITH (Hamilton Mountain)

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*(Reprinted as amended by the  
Private Bills Committee)*

# **BILL Pr3**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act respecting the City of Hamilton**

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**MR. SMITH (Hamilton Mountain)**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**





BILL Pr3

1974

## An Act respecting the City of Hamilton

**W**HEREAS The Corporation of the City of Hamilton, <sup>Preamble</sup>  
 herein called the Corporation, represents that the council of the Corporation did pass a resolution on the 27th day of October, 1970, under section 241 of *The Municipal Act*, being chapter 249 of the Revised Statutes of Ontario, 1960, requesting a judge of the County Court of the County of Wentworth to investigate and report on the actions and conduct of members of council, officials, agents and employees of the Corporation and any persons having a contract with the Corporation with respect to the carrying out of the construction of a new city hall; and that Stanley M. Roscoe, former architect of the Corporation during whose tenure the city hall was built was a witness before the judicial inquiry held by His Honour Judge T. L. McCombs; and whereas it is considered desirable that the council of the Corporation have the authority to pass a by-law authorizing the Corporation to pay all or part of the costs incurred by Stanley M. Roscoe during the inquiry; and whereas the Corporation hereby applies for special legislation for such purpose; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The council of the Corporation is hereby authorized <sup>By-law authorized</sup> to pass a by-law authorizing the Corporation to pay all or part of the costs incurred by Stanley M. Roscoe during and as a result of the judicial inquiry held from the 15th day of February, 1971 to the 22nd day of June, 1971 into the construction of the new city hall.

2. This Act comes into force on the day it receives Royal <sup>Commence-</sup> Assent. <sup>ment</sup>

3. This Act may be cited as *The City of Hamilton Act*, <sup>Short title</sup> 1974.

An Act respecting  
the City of Hamilton

---

*1st Reading*

March 26th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. SMITH (Hamilton Mountain)

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting the City of Hamilton**

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**MR. SMITH (Hamilton Mountain)**

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BILL Pr4

1974

## An Act respecting the City of Hamilton

**W**HEREAS The Corporation of the City of Hamilton <sup>Preamble</sup> hereby applies for special legislation in respect of an additional class of persons in respect of which The Corporation of the City of Hamilton may make grants to the Hamilton Transit Commission to cover costs of providing transportation free of charge or at a reduced rate; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *b* of section 1 of *The City of Hamilton Act*, <sup>s. 1 (b), amended</sup> 1970, being chapter 153, is amended by adding thereto the following subclause:

- (v) a person in receipt of compensation for permanent disability under *The Workmen's* <sup>R.S.O. 1970, c. 505</sup> *Compensation Act*.

2. This Act comes into force on the day it receives <sup>Commence-</sup> Royal Assent. <sub>ment</sub>

3. This Act may be cited as *The City of Hamilton Act*, <sup>Short title</sup> 1974 (No. 2).

---

*1st Reading*

*2nd Reading*

*3rd Reading*

---

MR. SMITH (Hamilton Mountain)

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*(Private Bill)*

# **BILL Pr4**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act respecting the City of Hamilton**

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**MR. SMITH (Hamilton Mountain)**

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BILL Pr4

1974

## An Act respecting the City of Hamilton

**W**HEREAS The Corporation of the City of Hamilton hereby Preamble  
 applies for special legislation in respect of an additional  
 class of persons in respect of which The Corporation of the City  
 of Hamilton may make grants to the Hamilton Transit Com-  
 mission to cover costs of providing transportation free of charge  
 or at a reduced rate; and whereas it is expedient to grant the  
 application;

Therefore, Her Majesty, by and with the advice and consent  
 of the Legislative Assembly of the Province of Ontario, enacts as  
 follows:

1. Clause *b* of section 1 of *The City of Hamilton Act, 1970*, s. 1 (b),  
amended  
 being chapter 153, is amended by adding thereto the follow-  
 ing subclause:
  - (v) a person in receipt of compensation for per-  
 manent disability under *The Workmen's* R.S.O. 1970,  
c. 505  
*Compensation Act*.
2. This Act comes into force on the day it receives Royal Commence-  
ment  
 Assent.
3. This Act may be cited as *The City of Hamilton Act, 1974* Short title  
 (No. 2).



An Act respecting the City of Hamilton

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*1st Reading*

March 26th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. SMITH (Hamilton Mountain)

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting the City of Ottawa**

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**MR. MORROW**

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BILL Pr5

1974

## An Act respecting the City of Ottawa

**W**HEREAS The Corporation of the City of Ottawa, herein Preamble  
 called the Corporation, hereby applies for special legis-  
 lation in respect of the matters hereinafter set forth; and  
 whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent  
 of the Legislative Assembly of the Province of Ontario, enacts  
 as follows:

1.—(1) In this section, "taxi-cab broker" means a taxi-cab Interpre-  
 broker as defined in clause *a* of paragraph 6 of section 377 of tation  
*The Municipal Act*. R.S.O. 1970,  
c. 284

(2) By-laws may be enacted by the council of the Corpora- Council  
may enact  
by-laws  
 tion.

1. prohibiting taxi-cab brokers from operating within  
the City of Ottawa;
2. limiting the number of taxi-cab brokers licensed by  
the Corporation;
3. regulating and controlling stand rents and prohibit-  
ing the charging of stand rents in excess of those  
permitted in any such by-law;
4. regulating and controlling taxi-cab rents and pro-  
hibiting the charging of rents in excess of those  
permitted in any such by-law;
5. authorizing the use of a standard form of rental  
agreement for all stand rentals, which form shall  
be attached to such by-law as a part thereof and  
providing that no stand rental agreement shall be  
binding on the parties thereto unless in the form  
attached to such by-law;

6. authorizing the use of a standard form of rental agreement for all taxi-cab rentals which form shall be attached to such by-law as a part thereof and providing that no taxi-cab rental agreement shall be binding on the parties thereto unless in the form attached to such by-law;
7. prohibiting any person from entering into a stand rental agreement or a taxi-cab rental agreement which deviates from the agreements referred to in paragraphs 5 and 6;
8. requiring the establishment, regulation and maintenance of a taxi-cab driver's record book;
9. authorizing the Corporation,
  - (a) to enter into agreements in respect of the establishment, operation and maintenance of a central dispatch system for taxi-cabs, and of the sharing of the profits thereof;
  - (b) to pay such costs of capital equipment or operation charges in respect of the agreements referred to in clause *a* as may be considered appropriate by the Corporation; and
  - (c) providing for the charging of the costs of capital equipment and operating expenses referred to in clause *b* to revenue;
10. authorizing,
  - (a) the Corporation to establish, operate and maintain a central dispatch system for taxi-cabs alone or jointly with other persons;
  - (b) the provision of funds required to establish, operate and maintain a central dispatch system, by the Corporation alone or jointly with other persons; and
  - (c) the staffing by employees of the Corporation of a central dispatch system operated and maintained by the Corporation alone or jointly with other persons;
11. authorizing the Corporation to enter into agreements with owners of taxi-cabs for the use of the central dispatch system by their taxi-cabs;



12. authorizing the Corporation to enter into agreements with persons to provide taxi-cab service, and providing for the recovery and collection of all debts due the Corporation arising from failure to make payment of any charges arising out of any such agreement in the same manner and to the same extent as provided in section 469 of *The Municipal Act*;

R.S.O. 1970.  
c. 284

13. authorizing the Corporation to enter into agreements with the operators of credit card systems, whereby they will make payment of charges made through their system or guarantee payment thereof;

14. authorizing the Corporation to acquire by purchase the business of any taxi-cab broker including any business which has ceased to operate, and authorizing the compensation, if undetermined, to be determined pursuant to *The Arbitrations Act* and authorizing the vesting of any such business on the day after the day upon which the Corporation pays 100 per cent of its offer respecting compensation into the Supreme Court.

R.S.O. 1970.  
c. 25

**2.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**3.** This Act may be cited as *The City of Ottawa Act, 1974*. Short title





*1st Reading*

April 8th, 1974

*2nd Reading*

*3rd Reading*

---

MR. MORROW

---

(*Private Bill*)

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act respecting the City of Ottawa**

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**MR. MORROW**

---

*(Reprinted as amended by the Private Bills Committee)*





BILL Pr5

1974

## An Act respecting the City of Ottawa

**W**HEREAS The Corporation of the City of Ottawa, herein Preamble  
 called the Corporation, hereby applies for special legis-  
 lation in respect of the matters hereinafter set forth; and  
 whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent  
 of the Legislative Assembly of the Province of Ontario, enacts  
 as follows:

**1.**—(1) In this section, "taxi-cab broker" means a taxi-cab Interpre-  
 broker as defined in clause *a* of paragraph 6 of section 377 of tation  
*The Municipal Act*. R.S.O. 1970,  
c. 284

(2) By-laws may be enacted by the council of the Corpora- Council  
may enact  
by-laws  
 tion,

1. subject to section 5, prohibiting taxi-cab brokers  
 from operating within the City of Ottawa;
2. limiting the number of taxi-cab brokers licensed by  
 the Corporation;
3. regulating and controlling stand rents and prohibit-  
 ing the charging of stand rents in excess of those  
 permitted in any such by-law;
4. regulating and controlling taxi-cab rents and pro-  
 hibiting the charging of rents in excess of those  
 permitted in any such by-law;
5. authorizing the use of a standard form of rental  
 agreement for all stand rentals, which form shall  
 be attached to such by-law as a part thereof and  
 providing that no stand rental agreement shall be  
 binding on the parties thereto unless in the form  
 attached to such by-law;

6. authorizing the use of a standard form of rental agreement for all taxi-cab rentals which form shall be attached to such by-law as a part thereof and providing that no taxi-cab rental agreement shall be binding on the parties thereto unless in the form attached to such by-law;
7. prohibiting any person from entering into a stand rental agreement or a taxi-cab rental agreement which deviates from the agreements referred to in paragraphs 5 and 6;
8. requiring the establishment, regulation and maintenance of a taxi-cab driver's record book;
9. authorizing the Corporation,
  - (a) to enter into agreements in respect of the establishment, operation and maintenance of a central dispatch system for taxi-cabs, and of the sharing of the profits thereof;
  - (b) to pay such costs of capital equipment or operation charges in respect of the agreements referred to in clause *a* as may be considered appropriate by the Corporation; and
  - (c) providing for the charging of the costs of capital equipment and operating expenses referred to in clause *b* to revenue;
10. authorizing,
  - (a) the Corporation to establish, operate and maintain a central dispatch system for taxi-cabs alone or jointly with other persons;
  - (b) the provision of funds required to establish, operate and maintain a central dispatch system, by the Corporation alone or jointly with other persons; and
  - (c) the staffing by employees of the Corporation of a central dispatch system operated and maintained by the Corporation alone or jointly with other persons;
11. authorizing the Corporation to enter into agreements with owners of taxi-cabs for the use of the central dispatch system by their taxi-cabs;

12. authorizing the Corporation to enter into agreements with persons to provide taxi-cab service, and providing for the recovery and collection of all debts due the Corporation arising from failure to make payment of any charges arising out of any such agreement in the same manner and to the same extent as provided in section 469 of *The Municipal Act*;

R.S.O. 1970,  
c. 284

13. authorizing the Corporation to enter into agreements with the operators of credit card systems, whereby they will make payment of charges made through their system or guarantee payment thereof;

14. subject to sections 2 to 4, authorizing the Corporation to acquire by purchase the business of each taxi-cab broker operating within the City of Ottawa on the day the by-law is passed.

**2.** Where a by-law is passed under paragraph 14 of subsection 2 of section 1,

Procedure  
where by-law  
passed under  
s. 1 (2), par. 14

- (a) the Corporation shall, either by personal service or by prepaid registered mail, give notice in writing to the owner of each taxi-cab broker business operating in the City of Ottawa of the passing of the by-law and of the Corporation's intention to acquire the business of the taxi-cab broker; and
- (b) the Corporation and the owner of each such taxi-cab broker business shall determine the fair market value of the taxi-cab broker business as a going concern as of the date of the giving of the notice of intention to acquire the business,
  - (i) by agreement between the Corporation and the owner of the taxi-cab broker business, or
  - (ii) failing agreement under subclause i, by arbitration under *The Arbitrations Act*, all of the provisions of which apply as if the arbitration were pursuant to a submission under that Act, except in so far as this Act is inconsistent therewith.

R.S.O. 1970,  
c. 25

**3.** Where the Corporation and the owner of a taxi-cab broker business are unable to reach agreement under subclause i of clause b of section 2, either party may serve upon the other notice in writing that it desires the fair market value of the business to be determined by a board

Notice  
requiring  
arbitration



of arbitration and each party shall, within seven days of the serving of the notice appoint a member, and a third member, who shall be chairman, shall be appointed within a further seven days by the two members so appointed.

Payment of  
market value  
and vesting of  
business in  
Corporation

4. Where the fair market value of a taxi-cab broker business has been determined either by agreement under subclause i of clause b of section 2 or by arbitration under subclause ii of clause b of section 2, the Corporation shall pay the full amount thereof to the owner of the business and upon such payment the business of such taxi-cab broker thereupon vests in the Corporation.

When by-law  
passed under  
s. 1 (2), par. 1,  
comes into  
force

5. No by-law passed under paragraph 1 of subsection 2 of section 1 comes into force or has effect until the business of each taxi-cab broker operating in the City of Ottawa has been acquired by the Corporation pursuant to a by-law passed under paragraph 14 of subsection 2 of section 1 and each such business has become vested in the Corporation under section 4.

Commence-  
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. This Act may be cited as *The City of Ottawa Act, 1974*.





An Act respecting the City of Ottawa

---

*1st Reading*

April 8th, 1974

*2nd Reading*

*3rd Reading*

---

MR. MORROW

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*(Reprinted as amended by the  
Private Bills Committee)*

# **BILL Pr5**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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## **An Act respecting the City of Ottawa**

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MR. MORROW

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BILL Pr5

1974

## An Act respecting the City of Ottawa

**W**HEREAS The Corporation of the City of Ottawa, herein Preamble  
called the Corporation, hereby applies for special legis-  
lation in respect of the matters hereinafter set forth; and  
whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent  
of the Legislative Assembly of the Province of Ontario, enacts  
as follows:

1.—(1) In this section, "taxi-cab broker" means a taxi-cab Interpre-  
broker as defined in clause *a* of paragraph 6 of section 377 of tation  
*The Municipal Act*. R.S.O. 1970,  
c. 284

(2) By-laws may be enacted by the council of the Corpora- Council  
may enact  
by-laws  
tion.

1. subject to section 5, prohibiting taxi-cab brokers  
from operating within the City of Ottawa;
2. limiting the number of taxi-cab brokers licensed by  
the Corporation;
3. regulating and controlling stand rents and prohibit-  
ing the charging of stand rents in excess of those  
permitted in any such by-law;
4. regulating and controlling taxi-cab rents and pro-  
hibiting the charging of rents in excess of those  
permitted in any such by-law;
5. authorizing the use of a standard form of rental  
agreement for all stand rentals, which form shall  
be attached to such by-law as a part thereof and  
providing that no stand rental agreement shall be  
binding on the parties thereto unless in the form  
attached to such by-law;

6. authorizing the use of a standard form of rental agreement for all taxi-cab rentals which form shall be attached to such by-law as a part thereof and providing that no taxi-cab rental agreement shall be binding on the parties thereto unless in the form attached to such by-law;
7. prohibiting any person from entering into a stand rental agreement or a taxi-cab rental agreement which deviates from the agreements referred to in paragraphs 5 and 6;
8. requiring the establishment, regulation and maintenance of a taxi-cab driver's record book;
9. authorizing the Corporation,
  - (a) to enter into agreements in respect of the establishment, operation and maintenance of a central dispatch system for taxi-cabs, and of the sharing of the profits thereof;
  - (b) to pay such costs of capital equipment or operation charges in respect of the agreements referred to in clause *a* as may be considered appropriate by the Corporation; and
  - (c) providing for the charging of the costs of capital equipment and operating expenses referred to in clause *b* to revenue;
10. authorizing,
  - (a) the Corporation to establish, operate and maintain a central dispatch system for taxi-cabs alone or jointly with other persons;
  - (b) the provision of funds required to establish, operate and maintain a central dispatch system, by the Corporation alone or jointly with other persons; and
  - (c) the staffing by employees of the Corporation of a central dispatch system operated and maintained by the Corporation alone or jointly with other persons;
11. authorizing the Corporation to enter into agreements with owners of taxi-cabs for the use of the central dispatch system by their taxi-cabs;



12. authorizing the Corporation to enter into agreements with persons to provide taxi-cab service, and providing for the recovery and collection of all debts due the Corporation arising from failure to make payment of any charges arising out of any such agreement in the same manner and to the same extent as provided in section 469 of *The Municipal Act*;

R.S.O. 1970,  
c. 284

13. authorizing the Corporation to enter into agreements with the operators of credit card systems, whereby they will make payment of charges made through their system or guarantee payment thereof;

14. subject to sections 2 to 4, authorizing the Corporation to acquire by purchase the business of each taxi-cab broker operating within the City of Ottawa on the day the by-law is passed.

**2.** Where a by-law is passed under paragraph 14 of subsection 2 of section 1,

Procedure  
where by-law  
passed under  
s. 1 (2), par. 14

- (a) the Corporation shall, either by personal service or by prepaid registered mail, give notice in writing to the owner of each taxi-cab broker business operating in the City of Ottawa of the passing of the by-law and of the Corporation's intention to acquire the business of the taxi-cab broker; and

- (b) the Corporation and the owner of each such taxi-cab broker business shall determine the fair market value of the taxi-cab broker business as a going concern as of the date of the giving of the notice of intention to acquire the business,

- (i) by agreement between the Corporation and the owner of the taxi-cab broker business, or

- (ii) failing agreement under subclause i, by arbitration under *The Arbitrations Act*, all of the provisions of which apply as if the arbitration were pursuant to a submission under that Act, except in so far as this Act is inconsistent therewith.

R.S.O. 1970,  
c. 26

**3.** Where the Corporation and the owner of a taxi-cab broker business are unable to reach agreement under subclause i of clause b of section 2, either party may serve upon the other notice in writing that it desires the fair market value of the business to be determined by a board

Notice  
requiring  
arbitration

of arbitration and each party shall, within seven days of the serving of the notice appoint a member, and a third member, who shall be chairman, shall be appointed within a further seven days by the two members so appointed.

Payment of  
market value  
and vesting of  
business in  
Corporation

4. Where the fair market value of a taxi-cab broker business has been determined either by agreement under subclause i of clause *b* of section 2 or by arbitration under subclause ii of clause *b* of section 2, the Corporation shall pay the full amount thereof to the owner of the business and upon such payment the business of such taxi-cab broker thereupon vests in the Corporation.

When by-law  
passed under  
s. 1 (2), par. 1,  
comes into  
force

5. No by-law passed under paragraph 1 of subsection 2 of section 1 comes into force or has effect until the business of each taxi-cab broker operating in the City of Ottawa has been acquired by the Corporation pursuant to a by-law passed under paragraph 14 of subsection 2 of section 1 and each such business has become vested in the Corporation under section 4.

Commence-  
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. This Act may be cited as *The City of Ottawa Act, 1974*.



An Act respecting the City of Ottawa

---

*1st Reading*

April 8th, 1974

*2nd Reading*

May 17th, 1974

*3rd Reading*

May 17th, 1974

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MR. MORROW

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act respecting  
The Wellington County Board of Education**

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**MR. WORTON**

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BILL Pr6

1974

## An Act respecting The Wellington County Board of Education

**W**HEREAS The Corporation of the Township of Puslinch Preamble  
hereby represents that the arbitrators of The Wellington County Board of Education gave a decision in respect of the value of the lands and premises comprising the former school known as Downey Road School of the former School Section Number 3 Puslinch as required by subsection 3 of section 30 of *The Secondary Schools and Boards of Education Act*, being chapter 425 of the Revised Statutes of Ontario, 1970, within the time prescribed in subsection 7 of section 30 of *The Secondary Schools and Boards of Education Act*; that the arbitrators of The Wellington County Board of Education amended such decision after the expiration of the time prescribed by subsection 7 of section 30 of *The Secondary Schools and Boards of Education Act* for the making of a decision by such arbitrators; and whereas the applicant hereby applies for special legislation deeming the lands and premises of the said Downey Road School to be valued at \$16,800 on the 31st day of December, 1968; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Notwithstanding the decision of the arbitrators of The Wellington County Board of Education made the 28th day of May, 1970, and notwithstanding the expiration of the time prescribed by subsections 7 and 9 of section 30 of *The Secondary Schools and Boards of Education Act* for making and amending decisions of such arbitrators valuing assets of such Board for the purposes of subsection 3 of section 30 of *The Secondary Schools and Boards of Education Act*, the arbitrators of The Wellington County Board of Education shall be deemed to have valued the lands and premises comprising the school known as Downey Road School of the former School Section Number 3 Puslinch at \$16,800 as of the 31st day of December, 1968.

Land and  
premises  
valued at  
\$16,800

Effect  
of Act

R.S.O. 1970,  
c. 111

**2.** Section 1 shall not have the effect of increasing or decreasing the amount of money payable to The Wellington County Board of Education under *The Ministry of Education Act* out of the moneys appropriated by the Legislature for educational purposes.

Estimates  
of Board  
for 1975 to  
implement  
decision

R.S.O. 1970,  
c. 425

**3.** The Wellington County Board of Education shall provide in its estimates for the year 1975 for the implementation of the decision deemed to have been made by the arbitrators under section 1 but in the preparation of such estimates it shall make due allowance for any previous implementation of the decision of the arbitrators made in accordance with section 30 of *The Secondary Schools and Boards of Education Act*.

Commence-  
ment

**4.** This Act comes into force on the day it receives Royal Assent.

Short title

**5.** This Act may be cited as *The Wellington County Board of Education Act, 1974*.









An Act respecting  
The Wellington County Board of Education

---

*1st Reading*

April 8th, 1974

*2nd Reading*

*3rd Reading*

---

MR. WORTON

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*(Private Bill)*

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# **BILL Pr6**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act respecting The Wellington County Board of Education**

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**MR. WORTON**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**



BILL Pr6

1974

## An Act respecting The Wellington County Board of Education

**W**HEREAS The Corporation of the Township of Puslinch Preamble  
hereby represents that the arbitrators of The Wellington County Board of Education gave a decision in respect of the value of the lands and premises comprising the former school known as Downey Road School of the former School Section Number 3 Puslinch as required by subsection 3 of section 30 of *The Secondary Schools and Boards of Education Act*, being chapter 425 of the Revised Statutes of Ontario, 1970, within the time prescribed in subsection 7 of section 30 of *The Secondary Schools and Boards of Education Act*; that the arbitrators of The Wellington County Board of Education amended such decision after the expiration of the time prescribed by subsection 7 of section 30 of *The Secondary Schools and Boards of Education Act* for the making of a decision by such arbitrators; and whereas the applicant hereby applies for special legislation deeming the lands and premises of the said Downey Road School to be valued at \$16,800 on the 31st day of December, 1968; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Notwithstanding the decision of the arbitrators of The Wellington County Board of Education made the 28th day of May, 1970, and notwithstanding the expiration of the time prescribed by subsections 7 and 9 of section 30 of *The Secondary Schools and Boards of Education Act* for making and amending decisions of such arbitrators valuing assets of such Board for the purposes of subsection 3 of section 30 of *The Secondary Schools and Boards of Education Act*, the arbitrators of The Wellington County Board of Education shall be deemed to have valued the lands and premises comprising the school known as Downey Road School of the former School Section Number 3 Puslinch at \$16,800 as of the 31st day of December, 1968.

Land and  
premises  
valued at  
\$16,800

Effect  
of Act

R.S.O. 1970,  
c. 111

**2.** Section 1 shall not have the effect of increasing or decreasing the amount of money payable to The Wellington County Board of Education under *The Ministry of Education Act* out of the moneys appropriated by the Legislature for educational purposes.

Estimates  
of Board  
for 1975 to  
implement  
decision

R.S.O. 1970,  
c. 425

**3.** The Wellington County Board of Education shall provide in its estimates for the year 1975 for the implementation of the decision deemed to have been made by the arbitrators under section 1 but in the preparation of such estimates it shall make due allowance for any previous implementation of the decision of the arbitrators made in accordance with section 30 of *The Secondary Schools and Boards of Education Act*.

Commence-  
ment

**4.** This Act comes into force on the day it receives Royal Assent.

Short title

**5.** This Act may be cited as *The Wellington County Board of Education Act, 1974*.









An Act respecting  
The Wellington County Board of Education

---

*1st Reading*

April 8th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. WORTON

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

---

**An Act respecting  
The Niagara Peninsular Railway Company**

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**MR. DEACON**

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THE UNIVERSITY OF CHICAGO

THE UNIVERSITY OF CHICAGO

THE UNIVERSITY OF CHICAGO



BILL Pr7

1974

## An Act respecting The Niagara Peninsular Railway Company

**W**HEREAS The Niagara Peninsular Railway Company, Preamble  
herein called the Company, hereby represents that it is  
a body corporate under the laws of the Province of Ontario,  
incorporated on the 20th day of April, 1907, by the Statutes  
of Ontario, 1907, being chapter 102, for the purpose of con-  
structing and operating a railway line in the Village of Port  
Colborne and in the townships of Humberstone and Wainfleet;  
and whereas the Company has disposed of all its assets, effects  
and properties, real and personal and is now inoperative;  
and whereas the applicant hereby applies to have the Company  
dissolved; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent  
of the Legislative Assembly of the Province of Ontario, enacts  
as follows:

1. The Niagara Peninsular Railway Company is hereby Niagara  
Peninsular  
Railway  
Company  
dissolved  
dissolved.

2. The following are repealed: Repeals

1. *An Act to incorporate The Niagara Peninsular Rail-  
way Company*, being chapter 102 of the Statutes of  
Ontario, 1907.
2. *An Act respecting the Niagara Peninsular Railway  
Company*, being chapter 137 of the Statutes of Ontario,  
1909.

3. This Act comes into force on the day it receives Royal Commence-  
ment  
Assent.

4. This Act may be cited as *The Niagara Peninsular Rail-Short title  
way Company Act, 1974.*

An Act respecting  
The Niagara Peninsular Railway Company

---

*1st Reading*

*2nd Reading*

*3rd Reading*

---

MR. DEACON

---

(*Private Bill*)

# **BILL Pr7**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act respecting The Niagara Peninsular Railway Company**

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**MR. DEACON**

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BILL Pr7

1974

## An Act respecting The Niagara Peninsular Railway Company

**W**HEREAS The Niagara Peninsular Railway Company, Preamble  
herein called the Company, hereby represents that it is  
a body corporate under the laws of the Province of Ontario,  
incorporated on the 20th day of April, 1907, by the Statutes  
of Ontario, 1907, being chapter 102, for the purpose of con-  
structing and operating a railway line in the Village of Port  
Colborne and in the townships of Humberstone and Wainfleet;  
and whereas the Company has disposed of all its assets, effects  
and properties, real and personal and is now inoperative;  
and whereas the applicant hereby applies to have the Company  
dissolved; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent  
of the Legislative Assembly of the Province of Ontario, enacts  
as follows:

1. The Niagara Peninsular Railway Company is hereby Niagara  
Peninsular  
Railway  
Company  
dissolved  
dissolved.

2. The following are repealed: Repeals

1. *An Act to incorporate The Niagara Peninsular Rail-  
way Company*, being chapter 102 of the Statutes of  
Ontario, 1907.
2. *An Act respecting the Niagara Peninsular Railway  
Company*, being chapter 137 of the Statutes of Ontario,  
1909.

3. This Act comes into force on the day it receives Royal Commence-  
ment  
Assent.

4. This Act may be cited as *The Niagara Peninsular Rail- Short title  
way Company Act, 1974.*

An Act respecting  
The Niagara Peninsular Railway Company

---

*1st Reading*

March 26th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. DEACON

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting The Incorporated  
Synod of the Diocese of Ontario**

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**MR. NUTTALL**

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BILL Pr8

1974

## An Act respecting The Incorporated Synod of the Diocese of Ontario

**W**HEREAS The Incorporated Synod of the Diocese of <sup>Preamble</sup> Ontario, being the applicant herein, hereby represents that it is desirous of amending *An Act to amend the Synod and Rectory Sales Acts affecting the Diocese of Ontario*, being chapter 109 of the Statutes of Ontario, 1875-76, to provide for a different distribution of surplus funds of the Diocese; and whereas the applicant hereby applies for special legislation for such purpose; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of *An Act to amend the Synod and Rectory Sales Acts affecting the Diocese of Ontario*, being chapter 109 of the Statutes of Ontario, 1875-76, as amended by the Statutes of Ontario, 1970, chapter 147, section 1, is further amended by inserting after "respectively" in the eighteenth line "and the incumbent of the Cathedral Church of St. George in the Rectory of Kingston", so that the section shall read as follows:

4. No incumbent of any such Rectories in the said Diocese, who may be inducted therein after the passing of this Act, shall receive, out of the proceeds of such sales, invested as in the said Rectory Act last mentioned, a sum larger than will, together with the rents, issues and profits of the lands of the said Rectory of which he is incumbent, then remaining unsold, amount to the sums following, that is to say: as to the Rectory of Kingston, the sum of three thousand dollars a year; as to the Rectory of Belleville, the sum of two thousand, five hundred dollars a year; and as to the rectories in other townships, the sum of one thousand, six hundred dollars; and all and any excess of interest arising from the proceeds of such sales and of the rents,

<sup>Rights of  
incoming  
incumbents</sup>

issues and profits of the lands of such rectory respectively remaining unsold, beyond such annual payments aforesaid, shall be apportioned to and divided among the incumbents of the other churches of the said Church, in the city, town or townships in which the lands belonging to such rectory are situate, or which to such rectory belongs respectively, and the incumbent of the Cathedral Church of St. George in the Rectory of Kingston, in such proportions as such Incorporated Synod shall, by resolution, by-law or canon, from time to time, order and direct.

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

Short title

**3.** This Act may be cited as *The Incorporated Synod of the Diocese of Ontario Act, 1974*.









An Act respecting The Incorporated  
Synod of the Diocese of Ontario

---

*1st Reading*

*2nd Reading*

*3rd Reading*

---

MR. NUTTALL

---

(*Private Bill*)

# **BILL Pr8**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

---

## **An Act respecting The Incorporated Synod of the Diocese of Ontario**

---

**MR. NUTTALL**

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## An Act respecting The Incorporated Synod of the Diocese of Ontario

**W**HEREAS The Incorporated Synod of the Diocese of Ontario, Preamble  
being the applicant herein, hereby represents that it is desirous  
of amending *An Act to amend the Synod and Rectory Sales Acts*  
*affecting the Diocese of Ontario*, being chapter 109 of the Statutes  
of Ontario, 1875-76, to provide for a different distribution of  
surplus funds of the Diocese; and whereas the applicant hereby  
applies for special legislation for such purpose; and whereas it is  
expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent  
of the Legislative Assembly of the Province of Ontario, enacts as  
follows:

1. Section 4 of *An Act to amend the Synod and Rectory Sales* s. 4.  
amended  
*Acts affecting the Diocese of Ontario*, being chapter 109 of  
the Statutes of Ontario, 1875-76, as amended by the Statutes  
of Ontario, 1970, chapter 147, section 1, is further amended  
by inserting after "respectively" in the eighteenth line  
"and the incumbent of the Cathedral Church of St. George  
in the Rectory of Kingston", so that the section shall read  
as follows:

4. No incumbent of any such Rectories in the said Rights of  
incoming  
incumbents  
Diocese, who may be inducted therein after the passing  
of this Act, shall receive, out of the proceeds of such  
sales, invested as in the said Rectory Act last mentioned,  
a sum larger than will, together with the rents, issues  
and profits of the lands of the said Rectory of which  
he is incumbent, then remaining unsold, amount to the  
sums following, that is to say: as to the Rectory of  
Kingston, the sum of three thousand dollars a year; as  
to the Rectory of Belleville, the sum of two thousand,  
five hundred dollars a year; and as to the rectories in  
other townships, the sum of one thousand, six hundred  
dollars; and all and any excess of interest arising from  
the proceeds of such sales and of the rents, issues and  
profits of the lands of such rectory respectively remaining  
unsold, beyond such annual payments aforesaid, shall be

apportioned to and divided among the incumbents of the other churches of the said Church, in the city, town or townships in which the lands belonging to such rectory are situate, or which to such rectory belongs respectively, and the incumbent of the Cathedral Church of St. George in the Rectory of Kingston, in such proportions as such Incorporated Synod shall, by resolution, by-law or canon, from time to time, order and direct.

Commence-  
ment

- 2.** This Act comes into force on the day it receives Royal Assent.

Short title

- 3.** This Act may be cited as *The Incorporated Synod of the Diocese of Ontario Act, 1974*.









An Act respecting The Incorporated  
Synod of the Diocese of Ontario

---

*1st Reading*

March 26th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. NUTTALL

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act respecting the Town of Strathroy**

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**MR. EATON**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**





BILL Pr9

1974

## An Act respecting the Town of Strathroy

**W**HEREAS The Corporation of the Town of Strathroy hereby represents that the Strathroy Recreation Committee was established by By-law 4-71G of the Town of Strathroy and that the Strathroy Board of Parks Management was established by By-law 1408 of the Town of Strathroy; and whereas The Corporation of the Town of Strathroy hereby represents that it is desirous of establishing a Parks, Community Centre and Recreation Commission for the better development and supervision of its public parks, its recreation facilities and its community centre or centres and for such purposes to charge the Commission with the duties and responsibilities and give it the powers and privileges of the Strathroy Board of Parks Management and the Strathroy Recreation Commission, established under *The Public Parks Act* and *The Department of Education Act*; and whereas the applicant hereby applies for special legislation in respect of such matters; and whereas it is expedient to grant the application;

Preamble

R.S.O. 1970,  
cc. 384, 111

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1. In this Act,

Interpre-  
tation

- (a) "Commission" means The Strathroy Parks, Community Centres and Recreation Commission;
- (b) "Council" means the council of the Town of Strathroy;
- (c) "Town" means The Corporation of the Town of Strathroy.

Parks,  
Community  
Centre and  
Recreation  
Commission  
established  
R.S.O. 1970,  
cc. 73, 120

2.—(1) Notwithstanding *The Ministry of Community and Social Services Act*, *The Public Parks Act* and *The Community Centres Act*, there shall be a commission which shall

be known as The Strathroy Parks, Community Centres and Recreation Commission, and shall be composed of,

- (a) two members of Council to be appointed by the Council; and
- (b) seven other persons appointed by the Council who shall be qualified to be elected as members of Council, but not members of Council.

**Term of office**

(2) The members of the Commission who are not members of the Council shall hold office for three years, provided that, on the first appointment, the Council shall designate which member shall hold office,

- (a) until the 1st day of January of the year next following the date of his appointment;
- (b) until the 1st day of January of the second year next following the date of his appointment; and
- (c) until the 1st day of January of the third year next following the date of his appointment,

respectively.

**Appointment of council members**

(3) The members of the Commission who are members of Council shall be appointed annually.

**Reappointment**

(4) The members of the Commission shall hold office until their successors are appointed, and, except in the case of members of Council, are eligible for appointment for two full three-year terms.

**Vacancy**

(5) Where a member ceases to be a member of the Commission before the expiration of his term of office, the Council shall appoint another qualified person for the unexpired portion of the term of the member being replaced.

**When appointments to be made**

(6) The first appointments of members of the Commission shall be made by the Council immediately upon the coming into force of this Act, and thereafter the appointments shall be made annually at the first meeting of the Council in any year, and any vacancy arising from any cause other than the expiration of the term for which a member was appointed shall be filled at the first meeting of the Council held after the vacancy occurs.

**Quorum**

(7) A majority of the members of the Commission constitutes a quorum.

(8) At its first meeting in every year, the Commission shall elect a chairman and a vice-chairman from among the members of the Commission, and in the absence of the chairman, the vice-chairman shall preside and the Commission shall appoint a secretary, who may, but need not, be a member of the Commission. Chairman, etc

(9) The chairman, vice-chairman and secretary shall hold office at the pleasure of the Commission or for such a period as the Commission may prescribe. Term of office

(10) When the chairman, vice-chairman or secretary is absent or unable to act, the Commission may appoint a chairman or secretary *pro tempore*. Absence

(11) The Commission may engage such employees and consultants as it considers expedient. Staff

(12) The Treasurer of the Town shall be the treasurer of the Commission. Treasurer

3. The members of the Commission shall be paid such remuneration as Council may determine. Remuneration

4. Except as otherwise provided in this Act, *The Ministry of Community and Social Services Act* and the regulations made thereunder, *The Community Centres Act* and the regulations made thereunder and *The Public Parks Act*, except the provisions constituting a Board of Park Management as a corporation and authorizing such a Board to acquire and hold land, apply to the Commission as if it has been established in accordance with such Acts and regulations. Application of R.S.O. 1970, cc. 120, 73, 384

5.—(1) When the first members of the Commission have been appointed, The Strathroy Recreation Committee and The Strathroy Board of Park Management are dissolved, and the assets and liabilities thereof become the assets and liabilities of the Commission. Dissolution of former bodies

(2) All by-laws hereinbefore passed in so far as they are inconsistent with the provisions of this Act are hereby repealed or amended so as to give full force and effect to this Act. By-laws

6. The Commission may contract and may sue and be sued in its own name. Commission may sue and be sued

7.—(1) The Commission shall, on or before the 15th day of February in each year, submit to the Council an itemized Estimates



R.S.O. 1970,  
c. 384

estimate of its financial requirements for the year, and subject to the provisions of *The Public Parks Act*, the Council may amend such estimate and shall pay out of the moneys appropriated for the Commission such amounts as may be requisitioned from time to time by the Commission.

Moneys for  
designated  
purpose

(2) Where any moneys have been included in the estimates of the Commission for a designated purpose, they shall be used by the Commission only for such designated purpose.

Powers and  
duties of  
Commission

8. The Commission shall operate, maintain, manage and develop on behalf of the Town all recreational centres, parks, playgrounds and other real property of a like nature vested in or leased by the Town and used or designed for recreational purposes and shall be in charge of, manage and make available for recreational purposes all recreational equipment, recreational facilities and other personal property belonging to the Town and used or designated for recreational purposes.

Idem

9. The Commission shall operate, maintain and manage on behalf of the Town all properties which are now or which may hereafter be established as community centres pursuant to *The Community Centres Act*, or the regulations made thereunder.

R.S.O. 1970,  
c. 73

Commence-  
ment

10. This Act comes into force on the day it receives Royal Assent.

Short title

11. This Act may be cited as *The Town of Strathroy Act, 1974*.



An Act respecting  
the Town of Strathroy

---

*1st Reading*

April 2nd, 1974

*2nd Reading*

*3rd Reading*

---

MR. EATON

---

(*Private Bill*)



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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting the Town of Strathroy**

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**MR. EATON**

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*(Reprinted as amended by the Private Bills Committee)*

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**TORONTO**

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL Pr9

1974

## An Act respecting the Town of Strathroy

**W**HEREAS The Corporation of the Town of Strathroy hereby represents that the Strathroy Recreation Committee was established by By-law 4-71G of the Town of Strathroy and that the Strathroy Board of Parks Management was established by By-law 1408 of the Town of Strathroy; and whereas The Corporation of the Town of Strathroy hereby represents that it is desirous of establishing a Parks, Community Centre and Recreation Commission for the better development and supervision of its public parks, its recreation facilities and its community centre or centres and for such purposes to charge the Commission with the duties and responsibilities and give it the powers and privileges of the Strathroy Board of Parks Management and the Strathroy Recreation Commission, established under *The Public Parks Act* and *The Department of Education Act*; and whereas the applicant hereby applies for special legislation in respect of such matters; and whereas it is expedient to grant the application;

Preamble

R.S.O. 1970.  
cc. 384, 111

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1. In this Act,

Interpre-  
tation

- (a) "Commission" means The Strathroy Parks, Community Centres and Recreation Commission;
- (b) "Council" means the council of the Town of Strathroy;
- (c) "Town" means The Corporation of the Town of Strathroy.

2.—(1) Notwithstanding *The Ministry of Community and Social Services Act*, *The Public Parks Act* and *The Community Centres Act*, there shall be a commission which shall

Parks,  
Community  
Centre and  
Recreation  
Commission  
established  
R.S.O. 1970.  
cc. 73, 120

be known as The Strathroy Parks, Community Centres and Recreation Commission, and shall be composed of,

- (a) two members of Council to be appointed by the Council, one of whom shall be the mayor or his delegate who shall also be a member of Council; and
- (b) seven other persons appointed by the Council who shall be qualified to be elected as members of Council, but not members of Council.

**Term of office**

(2) The members of the Commission who are not members of the Council shall hold office for three years, provided that, on the first appointment, the Council shall designate which member shall hold office,

- (a) until the 1st day of January of the year next following the date of his appointment;
- (b) until the 1st day of January of the second year next following the date of his appointment; and
- (c) until the 1st day of January of the third year next following the date of his appointment,

respectively.

**Appointment of council members**

(3) The members of the Commission who are members of Council shall be appointed to correspond with their term of office.

**Reappointment**

(4) The members of the Commission shall hold office until their successors are appointed, and, except in the case of members of Council, are eligible for appointment for two full three-year terms.

**Vacancy**

(5) Where a member ceases to be a member of the Commission before the expiration of his term of office, the Council shall appoint another qualified person for the unexpired portion of the term of the member being replaced.

**When appointments to be made**

(6) The first appointments of members of the Commission shall be made by the Council immediately upon the coming into force of this Act, and thereafter the appointments shall be made annually at the first meeting of the Council in any year, and any vacancy arising from any cause other than the expiration of the term for which a member was appointed shall be filled at the first meeting of the Council held after the vacancy occurs.

**Quorum**

(7) A majority of the members of the Commission constitutes a quorum.



(8) At its first meeting in every year, the Commission shall elect a chairman and a vice-chairman from among the members of the Commission, and in the absence of the chairman, the vice-chairman shall preside and the Commission shall appoint a secretary, who may, but need not, be a member of the Commission. Chairman,  
etc.

(9) The chairman, vice-chairman and secretary shall hold office at the pleasure of the Commission or for such a period as the Commission may prescribe. Term of  
office

(10) When the chairman, vice-chairman or secretary is absent or unable to act, the Commission may appoint a chairman or secretary *pro tempore*. Absence

(11) The Commission may engage such employees and consultants as it considers expedient. Staff

(12) The Treasurer of the Town shall be the treasurer of the Commission. Treasurer

3. The members of the Commission shall be paid such remuneration as Council may determine. Remunera-  
tion

4. Except as otherwise provided in this Act, *The Ministry of Community and Social Services Act* and the regulations made thereunder, *The Community Centres Act* and the regulations made thereunder and *The Public Parks Act*, except the provisions constituting a Board of Park Management as a corporation and authorizing such a Board to acquire and hold land, apply to the Commission as if it has been established in accordance with such Acts and regulations. Application  
of R.S.O. 1970,  
cc. 120, 73, 384

5.—(1) When the first members of the Commission have been appointed, The Strathroy Recreation Committee and The Strathroy Board of Park Management are dissolved, and the assets and liabilities thereof become the assets and liabilities of the Commission. Dissolution  
of former  
bodies

(2) All by-laws hereinbefore passed in so far as they are inconsistent with the provisions of this Act are hereby repealed or amended so as to give full force and effect to this Act. By-laws

6. The Commission may contract and may sue and be sued in its own name. Commission  
may sue and  
be sued

7.—(1) The Commission shall, on or before the 15th day of February in each year, submit to the Council an itemized Estimates

R.S.O. 1970,  
c. 384

estimate of its financial requirements for the year, and subject to the provisions of *The Public Parks Act*, the Council may amend such estimate and shall pay out of the moneys appropriated for the Commission such amounts as may be requisitioned from time to time by the Commission.

Moneys for  
designated  
purpose

(2) Where any moneys have been included in the estimates of the Commission for a designated purpose, they shall be used by the Commission only for such designated purpose.

Powers and  
duties of  
Commission

8. The Commission shall operate, maintain, manage and develop on behalf of the Town all recreational centres, parks, playgrounds and other real property of a like nature vested in or leased by the Town and used or designed for recreational purposes and shall be in charge of, manage and make available for recreational purposes all recreational equipment, recreational facilities and other personal property belonging to the Town and used or designated for recreational purposes.

Idem

9. The Commission shall operate, maintain and manage on behalf of the Town all properties which are now or which may hereafter be established as community centres pursuant to *The Community Centres Act*, or the regulations made thereunder.

R.S.O. 1970,  
c. 73

Commence-  
ment

10. This Act comes into force on the day it receives Royal Assent.

Short title

11. This Act may be cited as *The Town of Strathroy Act, 1974*.





An Act respecting  
the Town of Strathroy

---

*1st Reading*

April 2nd, 1974

*2nd Reading*

*3rd Reading*

---

MR. EATON

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(Reprinted as amended by the  
*Private Bills Committee*)

# **BILL Pr9**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act respecting the Town of Strathroy**

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**MR. EATON**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**



BILL Pr9

1974

## An Act respecting the Town of Strathroy

**W**HEREAS The Corporation of the Town of Strathroy Preamble hereby represents that the Strathroy Recreation Committee was established by By-law 4-71G of the Town of Strathroy and that the Strathroy Board of Parks Management was established by By-law 1408 of the Town of Strathroy; and whereas The Corporation of the Town of Strathroy hereby represents that it is desirous of establishing a Parks, Community Centre and Recreation Commission for the better development and supervision of its public parks, its recreation facilities and its community centre or centres and for such purposes to charge the Commission with the duties and responsibilities and give it the powers and privileges of the Strathroy Board of Parks Management and the Strathroy Recreation Commission, established under *The Public Parks Act* and *The Department of Education Act*; and whereas the applicant hereby applies for special legislation in respect of such matters; and whereas it is expedient to grant the application;

R.S.O. 1970.  
cc. 384, 111

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1. In this Act,

Interpre-  
tation

- (a) "Commission" means The Strathroy Parks, Community Centres and Recreation Commission;
- (b) "Council" means the council of the Town of Strathroy;
- (c) "Town" means The Corporation of the Town of Strathroy.

Parks,  
Community  
Centre and  
Recreation  
Commission  
established  
R.S.O. 1970.  
cc. 73, 120

**2.—(1)** Notwithstanding *The Ministry of Community and Social Services Act*, *The Public Parks Act* and *The Community Centres Act*, there shall be a commission which shall

be known as The Strathroy Parks, Community Centres and Recreation Commission, and shall be composed of,

- (a) two members of Council to be appointed by the Council, one of whom shall be the mayor or his delegate who shall also be a member of Council; and
- (b) seven other persons appointed by the Council who shall be qualified to be elected as members of Council, but not members of Council.

**Term of office**

(2) The members of the Commission who are not members of the Council shall hold office for three years, provided that, on the first appointment, the Council shall designate which member shall hold office,

- (a) until the 1st day of January of the year next following the date of his appointment;
- (b) until the 1st day of January of the second year next following the date of his appointment; and
- (c) until the 1st day of January of the third year next following the date of his appointment,

respectively.

**Appointment of council members**

(3) The members of the Commission who are members of Council shall be appointed to correspond with their term of office.

**Reappointment**

(4) The members of the Commission shall hold office until their successors are appointed, and, except in the case of members of Council, are eligible for appointment for two full three-year terms.

**Vacancy**

(5) Where a member ceases to be a member of the Commission before the expiration of his term of office, the Council shall appoint another qualified person for the unexpired portion of the term of the member being replaced.

**When appointments to be made**

(6) The first appointments of members of the Commission shall be made by the Council immediately upon the coming into force of this Act, and thereafter the appointments shall be made annually at the first meeting of the Council in any year, and any vacancy arising from any cause other than the expiration of the term for which a member was appointed shall be filled at the first meeting of the Council held after the vacancy occurs.

**Quorum**

(7) A majority of the members of the Commission constitutes a quorum.



(8) At its first meeting in every year, the Commission shall elect a chairman and a vice-chairman from among the members of the Commission, and in the absence of the chairman, the vice-chairman shall preside and the Commission shall appoint a secretary, who may, but need not, be a member of the Commission. Chairman, etc.

(9) The chairman, vice-chairman and secretary shall hold office at the pleasure of the Commission or for such a period as the Commission may prescribe. Term of office

(10) When the chairman, vice-chairman or secretary is absent or unable to act, the Commission may appoint a chairman or secretary *pro tempore*. Absence

(11) The Commission may engage such employees and consultants as it considers expedient. Staff

(12) The Treasurer of the Town shall be the treasurer of the Commission. Treasurer

3. The members of the Commission shall be paid such remuneration as Council may determine. Remuneration

4. Except as otherwise provided in this Act, *The Ministry of Community and Social Services Act* and the regulations made thereunder, *The Community Centres Act* and the regulations made thereunder and *The Public Parks Act*, except the provisions constituting a Board of Park Management as a corporation and authorizing such a Board to acquire and hold land, apply to the Commission as if it has been established in accordance with such Acts and regulations. Application of R.S.O. 1970, cc. 120, 73, 384

5.—(1) When the first members of the Commission have been appointed, The Strathroy Recreation Committee and The Strathroy Board of Park Management are dissolved, and the assets and liabilities thereof become the assets and liabilities of the Commission. Dissolution of former bodies

(2) All by-laws hereinbefore passed in so far as they are inconsistent with the provisions of this Act are hereby repealed or amended so as to give full force and effect to this Act. By-laws

6. The Commission may contract and may sue and be sued in its own name. Commission may sue and be sued

7.—(1) The Commission shall, on or before the 15th day of February in each year, submit to the Council an itemized Estimates

R.S.O. 1970,  
c. 384

estimate of its financial requirements for the year, and subject to the provisions of *The Public Parks Act*, the Council may amend such estimate and shall pay out of the moneys appropriated for the Commission such amounts as may be requisitioned from time to time by the Commission.

Moneys for  
designated  
purpose

(2) Where any moneys have been included in the estimates of the Commission for a designated purpose, they shall be used by the Commission only for such designated purpose.

Powers and  
duties of  
Commission

**8.** The Commission shall operate, maintain, manage and develop on behalf of the Town all recreational centres, parks, playgrounds and other real property of a like nature vested in or leased by the Town and used or designed for recreational purposes and shall be in charge of, manage and make available for recreational purposes all recreational equipment, recreational facilities and other personal property belonging to the Town and used or designated for recreational purposes.

Idem

**9.** The Commission shall operate, maintain and manage on behalf of the Town all properties which are now or which may hereafter be established as community centres pursuant to *The Community Centres Act*, or the regulations made thereunder.

R.S.O. 1970,  
c. 73

Commence-  
ment

**10.** This Act comes into force on the day it receives Royal Assent.

Short title

**11.** This Act may be cited as *The Town of Strathroy Act, 1974*.



An Act respecting  
the Town of Strathroy

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*1st Reading*

April 2nd, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. EATON

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act respecting Root's Dairy, Limited**

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**MR. ALLAN**

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BILL Pr10

1974

## An Act respecting Root's Dairy, Limited

**W**HEREAS John Weymark Root, Thomas Howard Root, <sup>Preamble</sup> and Margaret Louise Pittaway hereby represent that Root's Dairy Limited, herein called the Corporation, was incorporated by letters patent dated the 14th day of August, 1946; that the Provincial Secretary by order made under the authority of subsection 2 of section 326 of *The Corporations Act*, being chapter 71 of the Revised Statutes of Ontario, 1960, cancelled the letters patent of the corporation and declared it to be dissolved on the 16th day of March, 1967; that the applicants were all the directors of the Corporation at the time of the said dissolution; that default in filing annual returns occurred by reason of an inadvertence; that the Corporation at the time of its dissolution owned certain real property; and whereas the applicants hereby apply for special legislation reviving the Corporation; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Root's Dairy, Limited incorporated by letters patent <sup>Root's Dairy, Limited revived</sup> dated the 14th day of August, 1946, is hereby revived and is, subject to any rights acquired by any person after its dissolution, hereby restored to its legal position as a company incorporated by letters patent, including all its property, rights, privileges and franchises and subject to all its liabilities, contracts, disabilities and debts as at the date of its dissolution in the same manner and to the same extent as if it had not been dissolved.

2. This Act comes into force on the day it receives <sup>Commence-  
ment</sup> Royal Assent.

3. This Act may be cited as *The Root's Dairy, Limited* <sup>Short title</sup> Act, 1974.

---

*1st Reading*

*2nd Reading*

*3rd Reading*

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MR. ALLAN

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*(Private Bill)*

# **BILL Pr10**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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## **An Act respecting Root's Dairy, Limited**

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MR. ALLAN

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TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL Pr10

1974

## An Act respecting Root's Dairy, Limited

**W**HEREAS John Weymark Root, Thomas Howard Root, Preamble  
and Margaret Louise Pittaway hereby represent that  
Root's Dairy Limited, herein called the Corporation, was  
incorporated by letters patent dated the 14th day of  
August, 1946; that the Provincial Secretary by order made  
under the authority of subsection 2 of section 326 of *The*  
*Corporations Act*, being chapter 71 of the Revised Statutes  
of Ontario, 1960, cancelled the letters patent of the cor-  
poration and declared it to be dissolved on the 16th day  
of March, 1967; that the applicants were all the directors  
of the Corporation at the time of the said dissolution;  
that default in filing annual returns occurred by reason  
of an inadvertence; that the Corporation at the time of  
its dissolution owned certain real property; and whereas  
the applicants hereby apply for special legislation reviving  
the Corporation; and whereas it is expedient to grant  
the application;

Therefore, Her Majesty, by and with the advice and  
consent of the Legislative Assembly of the Province of  
Ontario, enacts as follows:

1. Root's Dairy, Limited incorporated by letters patent Root's Dairy,  
Limited  
revived  
dated the 14th day of August, 1946, is hereby revived  
and is, subject to any rights acquired by any person  
after its dissolution, hereby restored to its legal position  
as a company incorporated by letters patent, including all  
its property, rights, privileges and franchises and subject  
to all its liabilities, contracts, disabilities and debts as at  
the date of its dissolution in the same manner and to  
the same extent as if it had not been dissolved.

2. This Act comes into force on the day it receives Commence-  
ment  
Royal Assent.

3. This Act may be cited as *The Root's Dairy, Limited* Short title  
Act, 1974.

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*1st Reading*

March 26th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. ALLAN

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act Respecting the Town of Ingersoll**

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**MR. PARROTT**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**



BILL Pr11

1974

## An Act respecting the Town of Ingersoll

**W**HEREAS The Corporation of the Town of Ingersoll <sup>Preamble</sup> hereby represents that it is desirous of establishing The Ingersoll Recreational Services Board for the better development and supervision of its public parks, its recreation facilities and its community centre or centres and for such purposes to charge the Board with the duties and responsibilities and give to it the powers and privileges of the Ingersoll Parks Board, established under *The Public Parks Act*, of The Ingersoll and District Memorial Centre Board established under *The Community Centres Act*, and of the Ingersoll Recreation Committee, established under *The Department of Education Act*; and whereas the applicant hereby applies for special legislation in respect of such matters; and whereas it is expedient to grant the application;

R.S.O. 1970,  
cc. 384, 73,  
111

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1. In this Act,

Interpre-  
tation

- (a) "Board" means The Ingersoll Recreational Services Board;
- (b) "council" means the council of the Town;
- (c) "Town" means The Corporation of the Town of Ingersoll.

**2.—(1)** Notwithstanding *The Ministry of Community and Social Services Act*, *The Public Parks Act* and *The Community Centres Act*, there shall be a Board that shall be known as The Ingersoll Recreational Services Board and shall be composed of,

Ingersoll  
Recreational  
Services  
Board  
R.S.O. 1970,  
cc. 120, 384,  
73

- (a) the head of the council;

(b) two members of council to be appointed by the council; and

(c) six other persons appointed by the council who shall be qualified electors of the Town but not members of council.

Substitute  
for head of  
council

(2) The head of the council, with the approval of council, may annually appoint a substitute, who is a member of the council, to act for him.

Term of  
office

(3) The members of the Board who are not members of the council shall hold office for three years, provided that, on the first appointment, the council shall designate which member shall hold office,

(a) until the 1st day of January of the year next following the date of his appointment;

(b) until the 1st day of January of the second year next following the date of his appointment; and

(c) until the 1st day of January of the third year next following the date of his appointment,

respectively, so that one-third of such members shall retire each year.

Appointment  
of council  
members

(4) The members of the Board who are members of council shall be appointed to correspond with their term of office.

Reappoint-  
ment

(5) The members of the Board shall hold office until their successors are appointed, and are eligible for reappointment.

Vacancy

(6) Where a member ceases to be a member of the Board before the expiration of his term of office, the council shall appoint another eligible person for the unexpired portion of that term.

When appoint-  
ments to be  
made

(7) The first appointments of members of the Board shall be made by the council immediately upon the coming into force of this Act, and thereafter the appointments shall be made annually at the first meeting of the council in any year, and any vacancy arising from any cause other than the expiration of the term for which the member was appointed shall be filled at the first meeting of the council held after the vacancy occurs.



(8) A majority of the members of the Board constitutes <sup>Quorum</sup> a quorum.

(9) At its first meeting in every year, the Board shall <sup>Chairman, etc.</sup> elect a chairman and a vice-chairman from among the members of the Board, and in the absence of the chairman, the vice-chairman shall preside and the Board shall appoint a secretary, who may, but need not, be a member of the Board.

(10) The chairman, vice-chairman and secretary shall <sup>Term of office</sup> hold office at the pleasure of the Board or for such a period as the Board may prescribe.

(11) When the chairman, vice-chairman or secretary is <sup>Absence</sup> absent or unable to act, the Board may appoint a chairman or secretary *pro tempore*.

(12) The Board may engage such employees and con- <sup>Staff</sup> sultants as it considers expedient.

(13) The Treasurer of the Town shall be the treasurer <sup>Treasurer</sup> of the Board.

3. Except as otherwise provided in this Act, *The Ministry of Community and Social Services Act* and the regulations made thereunder, *The Community Centres Act* and the regulations made thereunder and *The Public Parks Act*, except the provisions constituting a Board of Park Management as a corporation and authorizing such a Board to acquire and hold land, apply to the Board as if it had been established in accordance with such Acts and regulations. <sup>Application of R. S. O. 1970, c. 120, 73, 384</sup>

4.—(1) When the first members of the Board have been <sup>Dissolution of former bodies</sup> appointed, The Ingersoll Recreation Committee, The Ingersoll Parks Board, and The Ingersoll and District Memorial Centre Board are dissolved, and the assets and liabilities thereof become the assets and liabilities of the Town.

(2) All by-laws heretofore passed in so far as they are <sup>By-laws</sup> inconsistent with the provisions of this Act are hereby repealed or amended so as to give full force and effect to this Act.

5. The Board may contract and may sue and be sued in <sup>Liability of Board members</sup> its own name, and the members thereof are not personally liable for torts committed by other members of the Board or its servants or agents or on any contract made by the Board.

## Estimates

**6.**—(1) The Board shall, on or before the 15th day of February in each year, submit to the council an itemized estimate of its financial requirements for the year, and, subject to the provisions of *The Public Parks Act*, the council may amend such estimate and shall pay out of the moneys appropriated for the Board such amounts as may be requisitioned from time to time by the Board.

R.S.O. 1970,  
c. 384

Application  
of moneys  
for designated  
purpose

(2) Where any moneys have been included in the estimates of the Board for a designated purpose, they shall be used by the Board only for such designated purpose and not otherwise.

Powers and  
duties of  
Board

**7.** The Board shall operate, maintain, manage and develop on behalf of the Town all recreational centres, parks, playgrounds and other real property of a like nature vested in or leased by the Town and used or designed for recreational purposes and shall be in charge of, manage and make available for recreational purposes all recreational equipment, recreational facilities and other personal property belonging to the Town and used or designed for recreational purposes.

## Idem

**8.** The Board shall operate, maintain and manage on behalf of the Town all properties which are now or which may hereafter be established as community centres pursuant to *The Community Centres Act*, or the regulations made thereunder.

R.S.O. 1970,  
c. 73

Commence-  
ment

**9.** This Act comes into force on the day it receives Royal Assent.

## Short title

**10.** This Act may be cited as *The Town of Ingersoll Act, 1974*.





An Act respecting the  
Town of Ingersoll

---

*1st Reading*

*2nd Reading*

*3rd Reading*

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MR. PARROTT

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*(Private Bill)*

# **BILL Pr11**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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## **An Act Respecting the Town of Ingersoll**

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**MR. PARROTT**

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**TORONTO**

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL Pr11

1974

## An Act respecting the Town of Ingersoll

**W**HEREAS The Corporation of the Town of Ingersoll <sup>Preamble</sup> hereby represents that it is desirous of establishing The Ingersoll Recreational Services Board for the better development and supervision of its public parks, its recreation facilities and its community centre or centres and for such purposes to charge the Board with the duties and responsibilities and give to it the powers and privileges of the Ingersoll Parks Board, established under *The Public Parks Act*, of The Ingersoll and District Memorial Centre Board established under *The Community Centres Act*, and of the Ingersoll Recreation Committee, established under *The Department of Education Act*; and whereas the applicant hereby applies for special legislation in respect of such matters; and whereas it is expedient to grant the application;

R.S.O. 1970,  
cc. 384, 73,  
111

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1. In this Act,

Interpre-  
tation

- (a) "Board" means The Ingersoll Recreational Services Board;
- (b) "council" means the council of the Town;
- (c) "Town" means The Corporation of the Town of Ingersoll.

2.—(1) Notwithstanding *The Ministry of Community and Social Services Act*, *The Public Parks Act* and *The Community Centres Act*, there shall be a Board that shall be known as The Ingersoll Recreational Services Board and shall be composed of,

Ingersoll  
Recreational  
Services  
Board  
R.S.O. 1970,  
cc. 120, 384,  
73

- (a) the head of the council;

(b) two members of council to be appointed by the council; and

(c) six other persons appointed by the council who shall be qualified electors of the Town but not members of council.

Substitute  
for head of  
council

(2) The head of the council, with the approval of council, may annually appoint a substitute, who is a member of the council, to act for him.

Term of  
office

(3) The members of the Board who are not members of the council shall hold office for three years, provided that, on the first appointment, the council shall designate which member shall hold office,

(a) until the 1st day of January of the year next following the date of his appointment;

(b) until the 1st day of January of the second year next following the date of his appointment; and

(c) until the 1st day of January of the third year next following the date of his appointment,

respectively, so that one-third of such members shall retire each year.

Appointment  
of council  
members

(4) The members of the Board who are members of council shall be appointed to correspond with their term of office.

Reappoint-  
ment

(5) The members of the Board shall hold office until their successors are appointed, and are eligible for reappointment.

Vacancy

(6) Where a member ceases to be a member of the Board before the expiration of his term of office, the council shall appoint another eligible person for the unexpired portion of that term.

When appoint-  
ments to be  
made

(7) The first appointments of members of the Board shall be made by the council immediately upon the coming into force of this Act, and thereafter the appointments shall be made annually at the first meeting of the council in any year, and any vacancy arising from any cause other than the expiration of the term for which the member was appointed shall be filled at the first meeting of the council held after the vacancy occurs.



(8) A majority of the members of the Board constitutes <sup>Quorum</sup> a quorum.

(9) At its first meeting in every year, the Board shall <sup>Chairman, etc.</sup> elect a chairman and a vice-chairman from among the members of the Board, and in the absence of the chairman, the vice-chairman shall preside and the Board shall appoint a secretary, who may, but need not, be a member of the Board.

(10) The chairman, vice-chairman and secretary shall <sup>Term of office</sup> hold office at the pleasure of the Board or for such a period as the Board may prescribe.

(11) When the chairman, vice-chairman or secretary is <sup>Absence</sup> absent or unable to act, the Board may appoint a chairman or secretary *pro tempore*.

(12) The Board may engage such employees and con-<sup>Staff</sup> sultants as it considers expedient.

(13) The Treasurer of the Town shall be the treasurer <sup>Treasurer</sup> of the Board.

3. Except as otherwise provided in this Act, *The Ministry of Community and Social Services Act* and the regulations <sup>Application of R.S.O. 1970, c. 120, ss. 73, 384</sup> made thereunder, *The Community Centres Act* and the regulations made thereunder and *The Public Parks Act*, except the provisions constituting a Board of Park Management as a corporation and authorizing such a Board to acquire and hold land, apply to the Board as if it had been established in accordance with such Acts and regulations.

4.—(1) When the first members of the Board have been <sup>Dissolution of former bodies</sup> appointed, The Ingersoll Recreation Committee, The Ingersoll Parks Board, and The Ingersoll and District Memorial Centre Board are dissolved, and the assets and liabilities thereof become the assets and liabilities of the Town.

(2) All by-laws heretofore passed in so far as they are <sup>By-laws</sup> inconsistent with the provisions of this Act are hereby repealed or amended so as to give full force and effect to this Act.

5. The Board may contract and may sue and be sued in <sup>Liability of Board members</sup> its own name, and the members thereof are not personally liable for torts committed by other members of the Board or its servants or agents or on any contract made by the Board.

Estimates

R.S.O. 1970,  
c. 384

**6.**—(1) The Board shall, on or before the 15th day of February in each year, submit to the council an itemized estimate of its financial requirements for the year, and, subject to the provisions of *The Public Parks Act*, the council may amend such estimate and shall pay out of the moneys appropriated for the Board such amounts as may be requisitioned from time to time by the Board.

Application  
of moneys  
for designated  
purpose

(2) Where any moneys have been included in the estimates of the Board for a designated purpose, they shall be used by the Board only for such designated purpose and not otherwise.

Powers and  
duties of  
Board

**7.** The Board shall operate, maintain, manage and develop on behalf of the Town all recreational centres, parks, playgrounds and other real property of a like nature vested in or leased by the Town and used or designed for recreational purposes and shall be in charge of, manage and make available for recreational purposes all recreational equipment, recreational facilities and other personal property belonging to the Town and used or designed for recreational purposes.

Idem

R.S.O. 1970,  
c. 73

**8.** The Board shall operate, maintain and manage on behalf of the Town all properties which are now or which may hereafter be established as community centres pursuant to *The Community Centres Act*, or the regulations made thereunder.

Commence-  
ment

**9.** This Act comes into force on the day it receives Royal Assent.

Short title

**10.** This Act may be cited as *The Town of Ingersoll Act, 1974*.



An Act respecting the  
Town of Ingersoll

---

*1st Reading*

March 26th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. PARROTT

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting the City of Niagara Falls**

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**MR. MORNINGSTAR**

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BILL Pr12

1974

## An Act respecting the City of Niagara Falls

**W**HEREAS The Corporation of the City of Niagara Falls, herein called the Corporation, hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application; Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause c of section 6 of *The Greater Niagara Transit Commission Act, 1960-61*, being chapter 112, is repealed and the following substituted therefor: s. 6 (c).  
re-enacted

(c) subject to *The Highway Traffic Act* and *The Public Vehicles Act*, and in so far as the Legislative authority of the Legislature extends to confer such power, to transport and convey passengers throughout, and to and from, and outside Ontario, whether by chartered trip or otherwise. R.S.O. 1970.  
cc. 202, 392

2. —(1) The council of the Corporation may pass by-laws for establishing any part or parts of Queen Street between the west limit of Ontario Avenue and the east limit of Chrysler Avenue and any part or parts of St. Clair Avenue between the north limit of Huron Street and the south limit of Park Street solely or principally as pedestrian promenades for such period or periods between the 15th day of June and the 15th day of September in any year, as the council may determine, and for prohibiting the use thereof by vehicles or any class thereof except to such extent and for such period or periods as may be specified and for permitting the use and obstruction thereof by such persons and in such manner and to such extent as the said council may consider desirable. Pedestrian  
promenades  
authorized

(2) Notwithstanding the provisions of any general or special Act, no person shall be entitled to recover any Right to  
damages by  
reason of  
creation of  
promenades

damages or compensation from the Corporation for loss of business or for loss of access to or from Queen Street, St. Clair Avenue or any other street arising from the exercise by the Corporation of its powers under this section.

Application  
of R.S.O. 1970,  
c. 284, s. 466

(3) Section 466 of *The Municipal Act* applies to any by-law enacted pursuant to subsection 1 or 4.

By-laws

(4) The council of the Corporation with respect to any pedestrian promenade established under subsection 1 may pass by-laws,

- (a) prohibiting or regulating and licensing the hawking, peddling or selling of any goods, wares, merchandise or food thereon;
- (b) prohibiting or regulating and licensing the use of any public address systems, sound equipment, loud speakers or similar devices thereon or on lands adjacent thereto;
- (c) prohibiting or regulating and licensing any display, exhibition or advertising thereon;
- (d) prohibiting or regulating and licensing the distribution or sale of literature, pamphlets, play bills or advertising thereon;
- (e) providing for the issue of licences with respect to any of the foregoing uses, including the authorization of the issue of licences by such official or officials of the Corporation as may be named in the by-law and for prescribing the fees for such licences.

Effect on  
licences  
issued by  
Corporation

(5) Where a by-law has been passed by the council of the Corporation prohibiting any of the uses set forth in clause *a*, *b*, *c* or *d* of subsection 4, the council may in the same or by separate by-law provide that any licence issued by the Corporation respecting any such use shall not be effective to permit such use on any pedestrian promenade established under this section.

Lands  
vested in  
Corporation

**3.** The lands described in the Schedule hereto are hereby vested in the Corporation in fee simple clear of and free from all right, title and interest other than that of the Corporation.

Commence-  
ment

**4.** This Act comes into force on the day it receives Royal Assent.

Short title

**5.** This Act may be cited as *The City of Niagara Falls Act, 1974*.

## SCHEDULE

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the City of Niagara Falls, in The Regional Municipality of Niagara, formerly in the Township of Willoughby, in the County of Welland and being composed of

*Firstly,*

Lots Nos. 31 to 39 inclusive, 46 to 60 inclusive, 73 to 78 inclusive, 97 to 103 inclusive, 121, 140, 143 to 149 inclusive, 167 to 171 inclusive, 178 to 201 inclusive, 208 to 215 inclusive, 222 to 245 inclusive and 274 to 280 inclusive, all according to the Alexander Park Plan of subdivision registered in the Registry Office for the Registry Division of the County of Welland as Plan No. 4 for the Township of Willoughby and now known as Plan No. 337.

*Secondly,*

Lots Nos. 151 to 180 inclusive and Lot No. 340, all according to the Waverly Heights Plan of subdivision registered in the Registry Office for the Registry Division of the County of Welland as Plan No. 5 for the Township of Willoughby and now known as Plan No. 338.





An Act respecting  
the City of Niagara Falls

---

*1st Reading*

March 26th, 1974

*2nd Reading*

*3rd Reading*

---

MR. MORNINGSTAR

---

*(Private Bill)*



---

4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

---

**An Act respecting the City of Niagara Falls**

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**MR. MORNINGSTAR**

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*(Reprinted as amended by the Private Bills Committee)*



BILL Pr12

1974

## An Act respecting the City of Niagara Falls

**W**HEREAS The Corporation of the City of Niagara Falls, herein called the Corporation, hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *c* of section 6 of *The Greater Niagara Transit Commission Act, 1960-61*, being chapter 112, is repealed and the following substituted therefor:

s. 6 (c),  
re-enacted

- (c) subject to *The Highway Traffic Act* and *The Public Vehicles Act*, and in so far as the Legislative authority of the Legislature extends to confer such power, to transport and convey passengers throughout, and to and from, and outside Ontario, whether by chartered trip or otherwise.

R.S.O. 1970,  
cc. 202, 392

2.—(1) The council of the Corporation may pass by-laws for establishing any part or parts of Queen Street between the west limit of Ontario Avenue and the east limit of Chrysler Avenue and any part or parts of St. Clair Avenue between the north limit of Huron Street and the south limit of Park Street solely or principally as pedestrian promenades for such period or periods between the 15th day of June and the 15th day of September in any year, as the council may determine, and for prohibiting the use thereof by vehicles or any class thereof except to such extent and for such period or periods as may be specified and for permitting the use and obstruction thereof by such persons and in such manner and to such extent as the said council may consider desirable.

Pedestrian  
promenades  
authorized

(2) Section 466 of *The Municipal Act* applies to any by-law enacted pursuant to subsection 1 or 3.

Application  
of R.S.O. 1970,  
c. 284, s. 466

## By-laws

(3) The council of the Corporation with respect to any pedestrian promenade established under subsection 1 may pass by-laws,

- (a) prohibiting or regulating and licensing the hawking, peddling or selling of any goods, wares, merchandise or food thereon;
- (b) prohibiting or regulating and licensing the use of any public address systems, sound equipment, loud speakers or similar devices thereon or on lands adjacent thereto;
- (c) prohibiting or regulating and licensing any display, exhibition or advertising thereon;
- (d) providing for the issue of licences with respect to any of the foregoing uses, including the authorization of the issue of licences by such official or officials of the Corporation as may be named in the by-law and for prescribing the fees for such licences.

Effect on  
licences  
issued by  
Corporation

(4) Where a by-law has been passed by the council of the Corporation prohibiting any of the uses set forth in clause a, b or c of subsection 3, the council may in the same or by separate by-law provide that any licence issued by the Corporation respecting any such use shall not be effective to permit such use on any pedestrian promenade established under this section.

Lands  
vested in  
Corporation

**3.** The lands described in the Schedule hereto are hereby vested in the Corporation in fee simple clear of and free from all right, title and interest other than that of the Corporation.

Commence-  
ment

**4.** This Act comes into force on the day it receives Royal Assent.

## Short title

**5.** This Act may be cited as *The City of Niagara Falls Act, 1974.*

## SCHEDULE

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the City of Niagara Falls, in The Regional Municipality of Niagara, formerly in the Township of Willoughby, in the County of Welland and being composed of:

*Firstly*

Lots Nos. 31 to 39 inclusive, 46 to 60 inclusive, 73 to 78 inclusive, 97 to 103 inclusive, 121, 140, 143 to 149 inclusive, 167 to 171 inclusive, 178 to 201 inclusive, 208 to 215 inclusive, 222 to 245 inclusive and 274 to 280 inclusive, all according to the Alexander Park Plan of subdivision registered in the Registry Office for the Registry Division of the County of Welland as Plan No. 4 for the Township of Willoughby and now known as Plan No. 337.

*Secondly:*

Lots Nos. 151 to 180 inclusive and Lot No. 340, all according to the Waverly Heights Plan of subdivision registered in the Registry Office for the Registry Division of the County of Welland as Plan No. 5 for the Township of Willoughby and now known as Plan No. 338.







An Act respecting  
the City of Niagara Falls

---

*1st Reading*

March 26th, 1974

*2nd Reading*

*3rd Reading*

---

MR. MORNINGSTAR

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(Reprinted as amended by the  
Private Bills Committee)

# **BILL Pr12**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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## **An Act respecting the City of Niagara Falls**

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**MR. MORNINGSTAR**

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**TORONTO**

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

1898-1899

1898-1899

1898-1899

BILL Pr12

1974

## An Act respecting the City of Niagara Falls

**W**HEREAS The Corporation of the City of Niagara Falls, herein called the Corporation, hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application; Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *c* of section 6 of *The Greater Niagara Transit Commission Act, 1960-61*, being chapter 112, is repealed and the following substituted therefor: s. 6 (c),  
re-enacted

(c) subject to *The Highway Traffic Act* and *The Public Vehicles Act*, and in so far as the Legislative authority of the Legislature extends to confer such power, to transport and convey passengers throughout, and to and from, and outside Ontario, whether by chartered trip or otherwise. R.S.O. 1970,  
cc. 202, 392

2.—(1) The council of the Corporation may pass by-laws for establishing any part or parts of Queen Street between the west limit of Ontario Avenue and the east limit of Crysler Avenue and any part or parts of St. Clair Avenue between the north limit of Huron Street and the south limit of Park Street solely or principally as pedestrian promenades for such period or periods between the 15th day of June and the 15th day of September in any year, as the council may determine, and for prohibiting the use thereof by vehicles or any class thereof except to such extent and for such period or periods as may be specified and for permitting the use and obstruction thereof by such persons and in such manner and to such extent as the said council may consider desirable. Pedestrian  
promenades  
authorized

(2) Section 466 of *The Municipal Act* applies to any by-law enacted pursuant to subsection 1 or 3. Application  
of R.S.O. 1970,  
c. 284, s. 466

## By-laws

(3) The council of the Corporation with respect to any pedestrian promenade established under subsection 1 may pass by-laws,

- (a) prohibiting or regulating and licensing the hawking, peddling or selling of any goods, wares, merchandise or food thereon;
- (b) prohibiting or regulating and licensing the use of any public address systems, sound equipment, loud speakers or similar devices thereon or on lands adjacent thereto;
- (c) prohibiting or regulating and licensing any display, exhibition or advertising thereon;
- (d) providing for the issue of licences with respect to any of the foregoing uses, including the authorization of the issue of licences by such official or officials of the Corporation as may be named in the by-law and for prescribing the fees for such licences.

Effect on  
licences  
issued by  
Corporation

(4) Where a by-law has been passed by the council of the Corporation prohibiting any of the uses set forth in clause *a*, *b* or *c* of subsection 3, the council may in the same or by separate by-law provide that any licence issued by the Corporation respecting any such use shall not be effective to permit such use on any pedestrian promenade established under this section.

Lands  
vested in  
Corporation

**3.** The lands described in the Schedule hereto are hereby vested in the Corporation in fee simple clear of and free from all right, title and interest other than that of the Corporation.

Commence-  
ment

**4.** This Act comes into force on the day it receives Royal Assent.

## Short title

**5.** This Act may be cited as *The City of Niagara Falls Act, 1974*.



## SCHEDULE

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the City of Niagara Falls, in The Regional Municipality of Niagara, formerly in the Township of Willoughby, in the County of Welland and being composed of

*Firstly*

Lots Nos. 31 to 39 inclusive, 46 to 60 inclusive, 73 to 78 inclusive, 97 to 103 inclusive, 121, 140, 143 to 149 inclusive, 167 to 171 inclusive, 178 to 201 inclusive, 208 to 215 inclusive, 222 to 245 inclusive and 274 to 280 inclusive, all according to the Alexander Park Plan of subdivision registered in the Registry Office for the Registry Division of the County of Welland as Plan No. 4 for the Township of Willoughby and now known as Plan No. 337

*Secondly*

Lots Nos. 151 to 180 inclusive and Lot No. 340, all according to the Waverly Heights Plan of subdivision registered in the Registry Office for the Registry Division of the County of Welland as Plan No. 5 for the Township of Willoughby and now known as Plan No. 338.





An Act respecting  
the City of Niagara Falls

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*1st Reading*

March 26th, 1974

*2nd Reading*

May 7th, 1974

*3rd Reading*

May 7th, 1974

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MR. MORNINGSTAR

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting  
Tara Exploration and Development Company Limited**

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MRS. SCRIVENER

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BILL Pr13

1974

## An Act respecting Tara Exploration and Development Company Limited

**W**HEREAS Tara Exploration and Development Com- Preamble  
pany Limited, hereinafter called the Corporation, hereby  
represents that it is a corporation incorporated by letters  
patent dated March 18th, 1953, under the provisions of *The*  
*Companies Act*, being chapter 59 of the Revised Statutes of  
Ontario, 1950; that supplementary letters patent and a  
certificate of amendment of articles have subsequently issued  
to the Corporation; and that the Corporation is not a resident  
and does not carry on any business in Ontario; and whereas  
the Corporation desires to be continued under the jurisdic-  
tion of the Province of New Brunswick; and whereas the  
Corporation hereby applies for special legislation for such  
purpose; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and con-  
sent of the Legislative Assembly of the Province of Ontario,  
enacts as follows:

1.—(1) The shareholders of the Corporation may author- Application  
to New  
Brunswick  
authorized  
ize an application pursuant to the provisions of *The Com-*  
*panies Act*, being chapter 33 of the Revised Statutes of  
New Brunswick, 1952, continuing without interruption the  
Corporation with its identity as a body corporate under the  
laws of the Province of New Brunswick and with its assets  
and liabilities unimpaired.

(2) Such authorization shall be by resolution of the share- Resolution  
holders of the Corporation passed by at least two-thirds  
of the votes cast at a general meeting of the shareholders of  
the Corporation duly called for that purpose.

2. On and after the effective date specified in the letters Application  
of R.S.O. 1970,  
c. 53  
patent issued under *The Companies Act* of the Province of  
New Brunswick if such effective date is not later than the  
31st day of March, 1975, *The Business Corporations Act*, and  
any successor thereto, shall not apply to the Corporation  
R.S.N.B.,  
1962, c. 33

and the continuation without interruption of the Corporation with its identity as a body corporate under the laws of the Province of New Brunswick and with its assets and liabilities unimpaired is recognized.

**Certificate**

**3.** The Minister of Consumer and Commercial Relations may, upon receipt by him of a certified copy of the letters patent mentioned in section 2, issue a certificate to the Corporation confirming the date on which the provisions of section 2 take effect.

**Commence-  
ment**

**4.** This Act comes into force on the day it receives Royal Assent.

**Short title**

**5.** This Act may be cited as *The Tara Exploration and Development Company Limited Act, 1974*.







An Act respecting  
Tara Exploration and Development  
Company Limited

---

*1st Reading*

*2nd Reading*

*3rd Reading*

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MRS. SCRIVENER

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(*Private Bill*)



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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act respecting  
Tara Exploration and Development Company Limited**

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**MRS. SCRIVENER**

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*(Reprinted as amended by the Private Bills Committee)*



BILL Pr13

1974

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(2) Such authorization shall be by resolution of the share- Resolution  
holders of the Corporation passed by at least two-thirds  
of the votes cast at a general meeting of the shareholders of  
the Corporation duly called for that purpose.

(3) The information circular to be sent to the share- Contents of  
information  
circular  
holders in connection with the general meeting mentioned  
in subsection 2 shall include statements substantially in  
the form set out in the Schedule hereto.

Application  
of R.S.O. 1970,  
c. 53  
R.S.N.B.,  
1952, c. 33

**2.** On and after the effective date specified in the letters patent issued under *The Companies Act* of the Province of New Brunswick if such effective date is not later than the 31st day of March, 1975, *The Business Corporations Act*, and any successor thereto, shall not apply to the Corporation and the continuation without interruption of the Corporation with its identity as a body corporate under the laws of the Province of New Brunswick and with its assets and liabilities unimpaired is recognized.

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**3.** The Minister of Consumer and Commercial Relations may, upon receipt by him of a certified copy of the letters patent mentioned in section 2, issue a certificate to the Corporation confirming the date on which the provisions of section 2 take effect.

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Short title

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## SCHEDULE

A Special Act of the Legislative Assembly of the Province of Ontario has been enacted enabling the Company, subject to shareholder approval by at least two-thirds of the votes cast at the meeting, to make such application for such letters patent.

**Shareholders should not conclude that the Legislative Assembly in passing the Special Act either approves or disapproves of the Company's proposal.**

Shareholders will recognize that the relocation by the Company to New Brunswick will deprive them, as shareholders, of several particular statutory rights now contained in the Ontario Act. Among such rights are the following:

The right to have a minimum period of notice of a meeting of shareholders of 21 days rather than the minimum of 14 days prescribed under the *New Brunswick Companies Act*;

The right to have meetings of the shareholders requisitioned by the holders of 5 per cent of the voting shares as contrasted with the 10 per cent provided under the *New Brunswick Companies Act*;

The benefit of a statutory standard of conduct for directors and officers;

The right to remove a director from office by a majority vote of the shareholders;

The right to remove an auditor during his term of office by a majority vote of the shareholders;

The right to require the attendance of an auditor at any shareholders' meeting, at the Company's expense;

The right to an audit committee of the board of directors;

The right of any shareholder to apply to the court for the appointment of an inspector to investigate the affairs and management of the Company, as contrasted with the right accruing to the holders of one-quarter of the issued shares provided for in the *New Brunswick Companies Act*;

The right of a shareholder to apply to the court to require the Company or any director or officer thereof to comply with the Act;

The right, in the discretion of the court, to receive notice of the discontinuance or settlement or dismissal for want of prosecution of any representative actions on behalf of the Company to enforce any right of the Company.









An Act respecting  
Tara Exploration and Development  
Company Limited

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*1st Reading*

March 26th, 1974

*2nd Reading*

*3rd Reading*

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MRS. SCRIVENER

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(*Reprinted as amended by the  
Private Bills Committee*)

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# **BILL Pr13**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act respecting Tara Exploration and Development Company Limited**

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**MRS. SCRIVENER**

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BILL Pr13

1974

**An Act respecting  
Tara Exploration and Development  
Company Limited**

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Application  
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The right of a shareholder to apply to the court to require the Company or any director or officer thereof to comply with the Act;

The right, in the discretion of the court, to receive notice of the discontinuance or settlement or dismissal for want of prosecution of any representative actions on behalf of the Company to enforce any right of the Company.





An Act respecting  
Tara Exploration and Development  
Company Limited

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*1st Reading*

March 26th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MRS. SCRIVENER

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act respecting the Town of Walkerton**

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**MR. SARGENT**

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BILL Pr14

1974

## An Act respecting the Town of Walkerton

**W**HEREAS The Corporation of the Town of Walkerton hereby applies for special legislation in respect of the matter hereinafter set forth; and whereas it is expedient to grant the application; Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The council of The Corporation of the Town of Walkerton is hereby authorized to pass a by-law, without obtaining the approval of the Ontario Municipal Board, authorizing the Corporation to borrow a sum not exceeding \$90,000 and to issue debentures therefor payable in not more than twenty years, for the purpose of paying the cost of sewers to be installed by the said Corporation. By-law authorized

2. Sections 55, 56, 57 and 58 of *The Ontario Municipal Board Act* apply with respect to any by-law passed under section 1, and to any debentures issued thereunder. Application of R.S.O. 1970, c. 323, ss. 55-58

3. For the purposes of every Act, the Ontario Municipal Board shall be deemed to have issued an order under section 64 of *The Ontario Municipal Board Act* authorizing the installation of the sewers referred to in section 1 and authorizing The Corporation of the Town of Walkerton to issue debentures under section 1. Order of O.M.B. deemed issued

4. This Act comes into force on the day it receives Royal Assent. Commencement

5. This Act may be cited as *The Town of Walkerton Act*. Short title  
1974.

An Act respecting  
the Town of Walkerton

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*1st Reading*

March 26th, 1974

*2nd Reading*

*3rd Reading*

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MR. SARGENT

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*(Private Bill)*

# **BILL Pr14**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act respecting the Town of Walkerton**

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**MR. SARGENT**

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BILL Pr14

1974

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An Act respecting  
the Town of Walkerton

---

*1st Reading*

March 26th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. SARGENT

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act respecting the City of Kitchener**

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**MR. BREITHAAPT**

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BILL Pr15

1974

## An Act respecting the City of Kitchener

**W**HEREAS The Corporation of the City of Kitchener, Preamble  
 herein called the Corporation, hereby applies for special  
 legislation in respect of the matters hereinafter set forth; and  
 whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent  
 of the Legislative Assembly of the Province of Ontario, enacts  
 as follows:

### 1. In this Act,

Interpre-  
tation

- (a) "Special Development Area" means an area of land within a plan of subdivision that is so designated in an agreement entered into by the Corporation and the owner of the land, and in respect of which Special Development Regulations and Special Development Standards apply;
- (b) "Special Development Regulations" means the regulations that apply to a Special Development Area governing lot size, size and style of housing, housing standards, maximum sale price, location of housing and concept plans;
- (c) "Special Development Standards" means the standards for subdivision services that apply to a Special Development Area.

**2.** The Corporation may enter into an agreement with the owner of land in respect of a plan of subdivision wherein a Special Development Area or Areas will be designated within the plan and whereby as a result of such designation as a Special Development Area the Special Development Regulations and Special Development Standards will apply. Agreements  
re Special  
Development  
Area  
authorized

**3.—(1)** The council of the Corporation may by by-law establish a Special Development Committee composed of seven persons of whom two shall be members of the council By-law to  
establish  
Special  
Development  
Committee

of the Corporation as selected by council, one shall be the Commissioner of Public Works or his delegate, one shall be the Commissioner of Planning and Development or his delegate, one shall be a representative of the Kitchener-Waterloo Real Estate Board, one shall be a representative of the Housing and Urban Development Association of Canada, Kitchener-Waterloo Branch, and one shall be a representative of the Urban Development Institute, Kitchener-Waterloo Chapter.

**Quorum**

(2) A majority of the Committee, including at least one member of council, constitutes a quorum.

**Special Development Standards**

4. The Special Development Committee may recommend to the council of the Corporation Special Development Standards for a Special Development Area and the council may by resolution adopt such standards in whole or in part or may adopt such standards with such modification as the council considers desirable and thereupon the standards apply to the Special Development Area and shall be adhered to by the owner of the lands in the area, his heirs, administrators, successors and assigns.

**Special Development Regulations**

5. The Special Development Committee may recommend to the council of the Corporation Special Development Regulations for a Special Development Area and the council may by resolution adopt such regulations in whole or in part or may adopt such regulations with such modifications as the council considers desirable and thereupon the regulations apply to the Special Development Area and shall be adhered to by the owner of the lands in the area, his heirs, administrators, successors and assigns.

**Review of recommendations by Committee**

6. The Special Development Committee may from time to time review and revise its recommendations in respect of Special Development Standards and Special Development Regulations and shall in any event review the maximum selling price of dwelling units set out in the Regulations and make recommendations to the council thereon at least once in every three months.

**Offers to purchase to require approval of Committee**

7. Upon an offer to purchase a dwelling unit in a Special Development Area being accepted by the vendor, one copy of the accepted offer shall be filed by the vendor with the Special Development Committee which shall consider each such offer, and unless the Committee approves the offer within fourteen days of its being received, the parties to the offer shall not be bound thereby.

**Offer required to provide to include covenant to reconvey**

8.—(1) The Special Development Committee shall not approve an offer to purchase filed with it under section 7, unless the offer contains a provision that the deed of land



from the vendor to the purchaser will include a covenant on the part of the purchaser to reconvey to the vendor at the original purchase price without regard to compensation for improvements, in the event the purchaser either fails to continuously occupy the dwelling unit for a period of one year after the date of registration of the deed or wishes to resell the dwelling unit within that period.

(2) Every deed of land in respect of a dwelling unit situate within a Special Development Area shall be deemed to contain the covenant mentioned in subsection 1, whether or not it is expressly set out in the deed, and to be binding upon the grantee named in the deed, his heirs and administrators.

9. Where the vendor becomes entitled to a reconveyance of a dwelling unit under section 8, if the vendor fails to complete the transaction and register the deed within sixty days, the right to such reconveyance vests in the Corporation.

10. The vendor or the Corporation, as the case may be, may resell a dwelling unit that has been conveyed to it under section 8 or 9 at such price as the council of the Corporation establishes, provided the price established shall not exceed the selling price applicable in the relevant Special Development Area as set out in Special Development Regulations last adopted by resolution of the council.

11. The subdivision agreement wherein a Special Development Area is to be designated shall be registered on title by the Corporation at the expense of the owner and shall be binding upon the owner, his heirs, administrators, successors and assigns.

12. In the event that a purchaser purchases a dwelling unit in a Special Development Area, at a price greater than the price established by the Special Development Committee as of the date of the acceptance of his offer to purchase, then the purchaser shall be entitled to recover, in a court of competent jurisdiction, the difference in price as between the price approved for the dwelling unit by the Special Development Committee as of the said date and the price which the purchaser, in fact, paid.

13. This Act comes into force on the day it receives Royal Assent.

14. This Act may be cited as *The City of Kitchener Act*.







An Act respecting the City of Kitchener

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*1st Reading*

April 8th, 1974

*2nd Reading*

*3rd Reading*

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MR. BREITHAUPPT

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*(Private Bill)*

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act respecting the City of Kitchener**

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**MR. BREITHAUP**

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*(Reprinted as amended by the Private Bills Committee)*



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**2.** The Corporation may enter into an agreement with the owner of land in respect of a plan of subdivision wherein a Special Development Area or Areas will be designated within the plan and whereby as a result of such designation as a Special Development Area the Special Development Regulations and Special Development Standards will apply. Agreement re Special Development Area authorized

**3.—(1)** The council of the Corporation may by by-law establish a Special Development Committee composed of seven persons of whom two shall be members of the council By-law to establish Special Development Committee

of the Corporation as selected by council, one shall be the Commissioner of Public Works or his delegate, one shall be the Commissioner of Planning and Development or his delegate, one shall be a representative of the Kitchener-Waterloo Real Estate Board, one shall be a representative of the Housing and Urban Development Association of Canada, Kitchener-Waterloo Branch, and one shall be a representative of the Urban Development Institute, Kitchener-Waterloo Chapter.

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**Offers to purchase required to provide approval of Committee**

**7.** Upon an offer to purchase a dwelling unit in a Special Development Area being accepted by the vendor, one copy of the accepted offer shall be filed by the vendor with the Special Development Committee which shall consider each such offer, and unless the Committee approves the offer within fourteen days of its being received, the parties to the offer shall not be bound thereby.

**Offer required to provide deed to include covenant to reconvey**

**8.—(1)** The Special Development Committee shall not approve an offer to purchase filed with it under section 7, unless the offer contains a provision that the deed of land



from the vendor to the purchaser will include a covenant on the part of the purchaser to reconvey to the vendor at the original purchase price without regard to compensation for improvements, in the event the purchaser either fails to continuously occupy the dwelling unit for a period of three years after the date of registration of the deed or wishes to resell the dwelling unit within that period.

(2) Every deed of land in respect of a dwelling unit situate within a Special Development Area shall be deemed to contain the covenant mentioned in subsection 1, whether or not it is expressly set out in the deed, and to be binding upon the grantee named in the deed, his heirs, executors, administrators, successors and assigns.

Deed deemed to include covenant to reconvey

9. Where the vendor becomes entitled to a reconveyance of a dwelling unit under section 8, if the vendor fails to complete the transaction and register the deed within sixty days, the right to such reconveyance vests in the Corporation.

When right to reconveyance vests in Corporation

10. The vendor or the Corporation, as the case may be, may resell a dwelling unit that has been conveyed to it under section 8 or 9 at such price as the council of the Corporation establishes, provided the price established shall not exceed the selling price applicable in the relevant Special Development Area as set out in Special Development Regulations last adopted by resolution of the council.

Price at which dwelling unit may be resold

11. The agreement wherein a Special Development Area is to be designated shall be registered on title by the Corporation at the expense of the owner and shall be binding upon the owner, his heirs, executors, administrators, successors and assigns.

Registration of agreement

12. In the event that a purchaser purchases a dwelling unit in a Special Development Area, at a price greater than the price established by the Special Development Committee as of the date of the acceptance of his offer to purchase, then the purchaser shall be entitled to recover, in a court of competent jurisdiction, the difference in price as between the price approved for the dwelling unit by the Special Development Committee as of the said date and the price which the purchaser, in fact, paid.

Right of action

13. This Act comes into force on the day it receives Royal Assent.

Commencement

14. This Act may be cited as *The City of Kitchener Act*, 1974.

Short title





*1st Reading*

April 8th, 1974

*2nd Reading*

*3rd Reading*

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MR. BREITHAUPT

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(Reprinted as amended by the  
Private Bills Committee)

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# **BILL Pr15**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act respecting the City of Kitchener**

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**MR. BREITHAAPT**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**





BILL Pr15

1974

## An Act respecting the City of Kitchener

**W**HEREAS The Corporation of the City of Kitchener, Preamble  
herein called the Corporation, hereby applies for special  
legislation in respect of the matters hereinafter set forth; and  
whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent  
of the Legislative Assembly of the Province of Ontario, enacts  
as follows:

### 1. In this Act,

Interpre-  
tation

- (a) "Special Development Area" means an area of land within a plan of subdivision that is so designated in an agreement entered into by the Corporation and the owner of the land, and in respect of which Special Development Regulations and Special Development Standards apply;
- (b) "Special Development Regulations" means the regulations that apply to a Special Development Area governing lot size, size and style of housing, housing standards, maximum sale price, location of housing and concept plans;
- (c) "Special Development Standards" means the standards for subdivision services that apply to a Special Development Area.

**2.** The Corporation may enter into an agreement with the owner of land in respect of a plan of subdivision wherein a Special Development Area or Areas will be designated within the plan and whereby as a result of such designation as a Special Development Area the Special Development Regulations and Special Development Standards will apply. Agreements re Special Development Area authorized

**3.—(1)** The council of the Corporation may by by-law establish a Special Development Committee composed of seven persons of whom two shall be members of the council By-law to establish Special Development Committee

of the Corporation as selected by council, one shall be the Commissioner of Public Works or his delegate, one shall be the Commissioner of Planning and Development or his delegate, one shall be a representative of the Kitchener-Waterloo Real Estate Board, one shall be a representative of the Housing and Urban Development Association of Canada, Kitchener-Waterloo Branch, and one shall be a representative of the Urban Development Institute, Kitchener-Waterloo Chapter.

**Quorum**

(2) A majority of the Committee, including at least one member of council, constitutes a quorum.

**Special Development Standards**

**4.** The Special Development Committee may recommend to the council of the Corporation Special Development Standards for a Special Development Area and the council may by resolution adopt such standards in whole or in part or may adopt such standards with such modification as the council considers desirable and thereupon the standards apply to the Special Development Area and shall be adhered to by the owner of the lands in the area, his heirs, executors, administrators, successors and assigns.

**Special Development Regulations**

**5.** The Special Development Committee may recommend to the council of the Corporation Special Development Regulations for a Special Development Area and the council may by resolution adopt such regulations in whole or in part or may adopt such regulations with such modifications as the council considers desirable and thereupon the regulations apply to the Special Development Area and shall be adhered to by the owner of the lands in the area, his heirs, executors, administrators, successors and assigns.

**Review of recommendations by Committee**

**6.** The Special Development Committee may from time to time review and revise its recommendations in respect of Special Development Standards and Special Development Regulations and shall in any event review the maximum selling price of dwelling units set out in the Regulations and make recommendations to the council thereon at least once in every three months.

**Offers to purchase to require approval of Committee**

**7.** Upon an offer to purchase a dwelling unit in a Special Development Area being accepted by the vendor, one copy of the accepted offer shall be filed by the vendor with the Special Development Committee which shall consider each such offer, and unless the Committee approves the offer within fourteen days of its being received, the parties to the offer shall not be bound thereby.

**Offer required to provide deed to include covenant to reconvey**

**8.—(1)** The Special Development Committee shall not approve an offer to purchase filed with it under section 7, unless the offer contains a provision that the deed of land

from the vendor to the purchaser will include a covenant on the part of the purchaser to reconvey to the vendor at the original purchase price without regard to compensation for improvements, in the event the purchaser either fails to continuously occupy the dwelling unit for a period of three years after the date of registration of the deed or wishes to resell the dwelling unit within that period.

(2) Every deed of land in respect of a dwelling unit situated within a Special Development Area shall be deemed to contain the covenant mentioned in subsection 1, whether or not it is expressly set out in the deed, and to be binding upon the grantee named in the deed, his heirs, executors, administrators, successors and assigns.

Deed deemed to include covenant to reconvey

9. Where the vendor becomes entitled to a reconveyance of a dwelling unit under section 8, if the vendor fails to complete the transaction and register the deed within sixty days, the right to such reconveyance vests in the Corporation.

When right to reconveyance vests in Corporation

10. The vendor or the Corporation, as the case may be, may resell a dwelling unit that has been conveyed to it under section 8 or 9 at such price as the council of the Corporation establishes, provided the price established shall not exceed the selling price applicable in the relevant Special Development Area as set out in Special Development Regulations last adopted by resolution of the council.

Price at which dwelling unit may be resold

11. The agreement wherein a Special Development Area is to be designated shall be registered on title by the Corporation at the expense of the owner and shall be binding upon the owner, his heirs, executors, administrators, successors and assigns.

Registration of agreement

12. In the event that a purchaser purchases a dwelling unit in a Special Development Area, at a price greater than the price established by the Special Development Committee as of the date of the acceptance of his offer to purchase, then the purchaser shall be entitled to recover, in a court of competent jurisdiction, the difference in price as between the price approved for the dwelling unit by the Special Development Committee as of the said date and the price which the purchaser, in fact, paid.

Right of action

13. This Act comes into force on the day it receives Royal Assent.

Commencement

14. This Act may be cited as *The City of Kitchener Act*, 1974.

Short title







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*1st Reading*

March 26th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. BREITHAUPF

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting the City of Orillia**

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**MR. SMITH (Simcoe East)**

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BILL Pr16

1974

## An Act respecting the City of Orillia

**W**HEREAS The Corporation of the City of Orillia, herein Preamble  
 called the Corporation, hereby represents that it wishes  
 to enter into an agreement with the Orillia Water, Light  
 and Power Commission, herein called the Commission, whereby  
 the administration, responsibilities, personnel and facilities  
 of the municipal waterworks system and the municipal  
 sanitary sewer system would be transferred by the Com-  
 mission to the Corporation; that it is desirable that the council  
 of the Corporation have the authority to pass a by-law  
 without the assent of the municipal electors authorizing the  
 Corporation to enter into such an agreement; and whereas  
 the Corporation hereby applies for special legislation for such  
 purpose; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and  
 consent of the Legislative Assembly of the Province of  
 Ontario, enacts as follows:

**1.** The council of the Corporation may pass a by-law, Council may  
pass by-law  
 without the assent of the municipal electors, authorizing  
 the Corporation to enter into an agreement, in the form  
 set out in the Schedule hereto, with the Commission pro-  
 viding for the transfer of the administration, responsibilities,  
 personnel and facilities of the municipal waterworks system  
 and the municipal sanitary sewer system from the Com-  
 mission to the Corporation.

**2.** This Act comes into force on the day it receives Royal Commence-  
ment  
 Assent.

**3.** This Act may be cited as *The City of Orillia Act*, Short title  
 1974.

## SCHEDULE

### TRANSFER AGREEMENT

THIS INDENTURE made in triplicate as of the 1st day of February, 1974,

BETWEEN:

THE CORPORATION OF THE CITY OF ORILLIA

(hereinafter called "the Corporation")

OF THE FIRST PART;

— and —

THE ORILLIA WATER, LIGHT AND POWER COMMISSION

(hereinafter called "the Commission")

OF THE SECOND PART.

WHEREAS by By-law Number 557 passed by The Corporation of the Town of Orillia on the 23rd day of January, 1913, responsibility for water works systems in the municipality were transferred to the Commission;

AND WHEREAS by By-law Number 970 passed by The Corporation of the Town of Orillia on the 17th day of December, 1929, responsibility for the sewerage system in the municipality was transferred to the Commission;

AND WHEREAS the Corporation and the Commission have agreed to transfer the administration, responsibilities, personnel and facilities of the municipal water works system and the municipal sanitary sewer system back to the Corporation upon such terms and conditions as the Commission and the Corporation may reach by Agreement.

NOW THEREFORE the parties hereto in consideration of the Mutual Covenants and conditions herein contained covenant and agree with one another as follows:

#### 1. Transfer

The Commission agrees to transfer to the Corporation and the Corporation agrees to accept, the administration, responsibilities, personnel and facilities of the municipal water works system and the municipal sanitary sewer system all in accordance with the covenants and conditions herein contained.

#### 2. Effective Date

The effective date of this transfer shall be as of the 30th day of June, 1974.

#### 3. Personnel Benefits

Upon the transfer of personnel from the Commission to the Corporation, the Corporation agrees that the employees so transferred shall receive all employee benefits at least equal to those benefits which they now receive as employees of the Commission.

#### 4. Assets and Liabilities

The parties hereto agree that as of the effective date, the assets and liabilities of the Commission with respect to the municipal water works system and the municipal sanitary sewer system shall be determined and transferred to the Corporation subject to ratification by audit.

#### 5. Union Representation

The Corporation and the Commission acknowledge that the City of Orillia Public Works employees are members of the Canadian Union of Public Employees and that the sewer and water employees of the Commission, that are being transferred to the Corporation, are members of the International Brotherhood Electrical Workers Union.

#### 6. Additional Documentation

The Corporation and the Commission agree to execute such further and other documents as may be necessary to give effect to the transfer provided for herein.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the                      day of                      , 19     .

THE CORPORATION OF THE CITY OF  
ORILLIA

.....  
*Mayor*

.....  
*Clerk*

ORILLIA WATER, LIGHT AND POWER  
COMMISSION

.....  
*Chairman*

.....  
*Secretary-Treasurer*







An Act respecting  
the City of Orillia

---

*1st Reading*

March 26th, 1974

*2nd Reading*

*3rd Reading*

---

MR. SMITH (Simcoe East)

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*(Private Bill)*

# **BILL Pr16**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act respecting the City of Orillia**

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**MR. SMITH (Simcoe East)**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**



BILL Pr16

1974

## An Act respecting the City of Orillia

**W**HEREAS The Corporation of the City of Orillia, herein Preamble  
 called the Corporation, hereby represents that it wishes  
 to enter into an agreement with the Orillia Water, Light  
 and Power Commission, herein called the Commission, whereby  
 the administration, responsibilities, personnel and facilities  
 of the municipal waterworks system and the municipal  
 sanitary sewer system would be transferred by the Com-  
 mission to the Corporation; that it is desirable that the council  
 of the Corporation have the authority to pass a by-law  
 without the assent of the municipal electors authorizing the  
 Corporation to enter into such an agreement; and whereas  
 the Corporation hereby applies for special legislation for such  
 purpose; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and  
 consent of the Legislative Assembly of the Province of  
 Ontario, enacts as follows:

1. The council of the Corporation may pass a by-law, Council may  
pass by-law  
 without the assent of the municipal electors, authorizing  
 the Corporation to enter into an agreement, in the form  
 set out in the Schedule hereto, with the Commission pro-  
 viding for the transfer of the administration, responsibilities,  
 personnel and facilities of the municipal waterworks system  
 and the municipal sanitary sewer system from the Com-  
 mission to the Corporation.

2. This Act comes into force on the day it receives Royal Commence-  
ment  
 Assent.

3. This Act may be cited as *The City of Orillia Act*, Short title  
 1974.

## SCHEDULE

### TRANSFER AGREEMENT

THIS INDENTURE made in triplicate as of the 1st day of February, 1974,

BETWEEN:

THE CORPORATION OF THE CITY OF ORILLIA

(hereinafter called "the Corporation")

OF THE FIRST PART;

— and —

THE ORILLIA WATER, LIGHT AND POWER COMMISSION

(hereinafter called "the Commission")

OF THE SECOND PART.

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#### 4. Assets and Liabilities

The parties hereto agree that as of the effective date, the assets and liabilities of the Commission with respect to the municipal water works system and the municipal sanitary sewer system shall be determined and transferred to the Corporation subject to ratification by audit

#### 5. Union Representation

The Corporation and the Commission acknowledge that the City of Orillia Public Works employees are members of the Canadian Union of Public Employees and that the sewer and water employees of the Commission, that are being transferred to the Corporation, are members of the International Brotherhood Electrical Workers Union.

#### 6. Additional Documentation

The Corporation and the Commission agree to execute such further and other documents as may be necessary to give effect to the transfer provided for herein

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the                      day of                      , 19

THE CORPORATION OF THE CITY OF  
ORILLIA

.....  
*Mayor*

.....  
*Clerk*

ORILLIA WATER, LIGHT AND POWER  
COMMISSION

.....  
*Chairman*

.....  
*Secretary-Treasurer*





*1st Reading*

March 26th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. SMITH (Simcoe East)

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act respecting Diamond and Green  
Construction Co. Limited**

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**MR. SINGER**

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BILL Pr17

1974

## An Act respecting Diamond and Green Construction Co. Limited

**W**HEREAS Abraham Diamond, Bernice Diamond, Samuel Diamond, Herbert Green and Joyce Green hereby represent that Diamond and Green Construction Co. Limited, hereinafter called the Corporation, was incorporated by letters patent dated the 9th day of July, 1957; that the Provincial Secretary by order dated the 19th day of March, 1969, and made under the authority of subsection 2 of section 326 of *The Corporations Act*, being chapter 71 of the Revised Statutes of Ontario, 1960, cancelled the letters patent of the Corporation for default in filing annual returns and declared the Corporation to be dissolved on the 23rd day of April, 1969; that the applicants were all the directors and the holders of all the common shares of the Corporation at the time of its dissolution; that the notice of default in filing annual returns required by the said subsection 2 of section 326 of *The Corporations Act*, although sent to each of the applicants as directors, was not received by any of them and none of them was aware of the dissolution of the Corporation until more than one year after the date thereof; that the Corporation was carrying on active business at the time of its dissolution; and whereas the applicants hereby apply for special legislation reviving the Corporation; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Diamond and Green Construction Co. Limited, incorporated by letters patent dated the 9th day of July, 1957, is hereby revived and is, subject to any rights acquired by any person after its dissolution, hereby restored to its legal position as a company incorporated by letters patent, including all its property, rights, privileges and franchises and subject to all its liabilities, contracts, disabilities and debts, as at the date of its dissolution, in

Diamond and  
Green  
Construction  
Co. Limited  
revived

the same manner and to the same extent as if it had not been dissolved.

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

Short title

**3.** This Act may be cited as *The Diamond and Green Construction Co. Limited Act, 1974*.







An Act respecting Diamond and Green  
Construction Co. Limited

---

*1st Reading*

*2nd Reading*

*3rd Reading*

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MR. SINGER

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(*Private Bill*)

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# **BILL Pr17**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act respecting Diamond and Green Construction Co. Limited**

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**MR. SINGER**

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## An Act respecting Diamond and Green Construction Co. Limited

**W**HEREAS Abraham Diamond, Bernice Diamond, Samuel Diamond, Herbert Green and Joyce Green hereby represent that Diamond and Green Construction Co. Limited, hereinafter called the Corporation, was incorporated by letters patent dated the 9th day of July, 1957; that the Provincial Secretary by order dated the 19th day of March, 1969, and made under the authority of subsection 2 of section 326 of *The Corporations Act*, being chapter 71 of the Revised Statutes of Ontario, 1960, cancelled the letters patent of the Corporation for default in filing annual returns and declared the Corporation to be dissolved on the 23rd day of April, 1969; that the applicants were all the directors and the holders of all the common shares of the Corporation at the time of its dissolution; that the notice of default in filing annual returns required by the said subsection 2 of section 326 of *The Corporations Act*, although sent to each of the applicants as directors, was not received by any of them and none of them was aware of the dissolution of the Corporation until more than one year after the date thereof; that the Corporation was carrying on active business at the time of its dissolution; and whereas the applicants hereby apply for special legislation reviving the Corporation; and whereas it is expedient to grant the application;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Diamond and Green Construction Co. Limited, incorporated by letters patent dated the 9th day of July, 1957, is hereby revived and is, subject to any rights acquired by any person after its dissolution, hereby restored to its legal position as a company incorporated by letters patent, including all its property, rights, privileges and franchises and subject to all its liabilities, contracts, disabilities and debts, as at the date of its dissolution, in

Diamond and  
Green  
Construction  
Co. Limited  
revived

the same manner and to the same extent as if it had not been dissolved.

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

Short title

**3.** This Act may be cited as *The Diamond and Green Construction Co. Limited Act, 1974.*









An Act respecting Diamond and Green  
Construction Co. Limited

---

*1st Reading*

March 26th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. SINGER

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act respecting Victoria Hospital Corporation  
and The War Memorial Children's Hospital  
of Western Ontario**

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**MR. WALKER**

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BILL Pr18

1974

**An Act respecting  
Victoria Hospital Corporation and  
The War Memorial Children's Hospital  
of Western Ontario**

**W**HEREAS Victoria Hospital Corporation and The War Memorial Children's Hospital of Western Ontario hereby represent that the Advisory Council of War Memorial Children's Hospital, London, is an unincorporated association lacking legal status, being the successor to the efforts of The Women's Committee which efforts resulted in the erection of War Memorial Children's Hospital, in London, Ontario, hereinafter referred to as "War Memorial Children's Hospital", as a War Memorial, which said hospital is under the management and control of Victoria Hospital Corporation; that the efforts of the Advisory Council have resulted in the donation of moneys entrusted or endowed for the use and benefit of War Memorial Children's Hospital and in possession or expectancy of Victoria Hospital Corporation; that The War Memorial Children's Hospital of Western Ontario is the successor to the work of the Advisory Council of War Memorial Children's Hospital, being incorporated under the provisions of *The Corporations Act*, being chapter 71 of the Revised Statutes of Ontario, 1960, by letters patent dated the 5th day of February, 1971, without share capital whose objects include the providing and maintaining of facilities for research in all the various branches of medicine, and the raising, collecting and accepting of donations, gifts and legacies, for its objects; that it is expedient that the said trust and endowment moneys should be transferred into the control and management of The War Memorial Children's Hospital of Western Ontario for the benefit of War Memorial Children's Hospital; and whereas the applicants hereby apply for special legislation for such purposes; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Interpre-  
tation

# 1. In this Act,

R.S.O. 1960,  
c. 71

- (a) "The War Memorial Children's Hospital of Western Ontario" means a corporation created without share capital under the name, The War Memorial Children's Hospital of Western Ontario, by charter issued under *The Corporations Act* on the 5th day of February, 1971;

R.S.O. 1970,  
c. 89

- (b) "Victoria Hospital Corporation" means a corporation created without share capital under the name Victoria Hospital Corporation by charter issued under *The Corporations Act* on the 19th day of January, 1973;

1934, c. 82

1972, c. 181

- (c) "War Memorial Children's Hospital Endowment Fund" means the Fund created by The Corporation of the City of London under the authority of section 4 of *The City of London Act, 1934* and subsequently assigned and transferred under the authority of section 2 of *The City of London Act, 1972* to Victoria Hospital Corporation;

- (d) "War Memorial Children's Hospital Improvement Fund" means a Fund by that name under the management and control of Victoria Hospital Corporation as it existed on the 31st day of December, 1973, comprising the principal sum of \$636,196.43.

Vesting and  
transfer of  
trust funds

2. All trust and endowment funds of every nature and kind held by Victoria Hospital Corporation for the benefit of War Memorial Children's Hospital which are now vested in and are under the control of Victoria Hospital Corporation, including War Memorial Children's Hospital Endowment Fund but not including War Memorial Children's Hospital Improvement Fund, are hereby vested in and belong to The War Memorial Children's Hospital of Western Ontario, to be used and administered in accordance with the purposes defined by the deed, will or other instruments creating such trust or endowment.

Charitable  
gifts

3. All gifts, trusts, bequests, devises and grants of real or personal property or of the income or proceeds thereof, heretofore or hereafter expressed by any person, body politic or corporation by deed, will or other instrument in writing to be made, given or conveyed or intended to be made, given or conveyed to War Memorial Children's Hospital shall, in so far as the same shall not have been vested in possession or been carried into effect at the date of the coming into force of this Act, in the absence of any expressed intention to the contrary set out in such deed, will or other instrument



in writing be construed as though the same had been expressed to be made to The War Memorial Children's Hospital of Western Ontario and the executor, trustee or other person or corporation charged with the duty of carrying into effect or administering such deed, will or other instrument in writing shall pay over or transfer all such moneys and property to The War Memorial Children's Hospital of Western Ontario as and when the same becomes or may become payable, and the receipt of The War Memorial Children's Hospital of Western Ontario shall be a sufficient discharge therefor.

4. Subsection 1 of section 4 of *The City of London Act*, <sup>s. 4 (1), amended</sup> 1973 (No. 2), being chapter 195, is amended by striking out "or War Memorial Children's Hospital" in the sixth and seventh lines.

5. Sections 5 and 6, and section 7 as re-enacted by the <sup>Repeals</sup> Statutes of Ontario, 1948, chapter 114, section 3, of *The City of London Act, 1934*, are repealed.

6. This Act comes into force on the day it receives Royal <sup>Commence-</sup> Assent.<sup>ment</sup>

7. This Act may be cited as *The Victoria Hospital-War* <sup>Short title</sup> *Memorial Children's Hospital, London, Act, 1974*.





An Act respecting Victoria Hospital  
Corporation and The War Memorial  
Children's Hospital of Western Ontario

---

*1st Reading*

*2nd Reading*

*3rd Reading*

---

MR. WALKER

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(*Private Bill*)

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

---

**An Act respecting Victoria Hospital Corporation  
and The War Memorial Children's Hospital  
of Western Ontario**

---

MR. WALKER

---

*(Reprinted as amended by the Private Bills Committee)*





BILL Pr18

1974

**An Act respecting  
Victoria Hospital Corporation and  
The War Memorial Children's Hospital  
of Western Ontario**

**W**HEREAS Victoria Hospital Corporation and The War Memorial Children's Hospital of Western Ontario hereby represent that the Advisory Council of War Memorial Children's Hospital, London, is an unincorporated association lacking legal status, being the successor to the efforts of The Women's Committee which efforts resulted in the erection of War Memorial Children's Hospital, in London, Ontario, hereinafter referred to as "War Memorial Children's Hospital", as a War Memorial, which said hospital is under the management and control of Victoria Hospital Corporation; that the efforts of the Advisory Council have resulted in the donation of moneys entrusted or endowed for the use and benefit of War Memorial Children's Hospital and in possession or expectancy of Victoria Hospital Corporation; that The War Memorial Children's Hospital of Western Ontario is the successor to the work of the Advisory Council of War Memorial Children's Hospital, being incorporated under the provisions of *The Corporations Act*, being chapter 71 of the Revised Statutes of Ontario, 1960, by letters patent dated the 5th day of February, 1971, without share capital whose objects include the providing and maintaining of facilities for research in all the various branches of medicine, and the raising, collecting and accepting of donations, gifts and legacies, for its objects; that it is expedient that the said trust and endowment moneys should be transferred into the control and management of The War Memorial Children's Hospital of Western Ontario for the benefit of War Memorial Children's Hospital; and whereas the applicants hereby apply for special legislation for such purposes; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Interpre-  
tation

## 1. In this Act,

(a) "The War Memorial Children's Hospital of Western Ontario" means a corporation created without share capital under the name, The War Memorial Children's Hospital of Western Ontario, by charter issued under *The Corporations Act* on the 5th day of February, 1971;

R.S.O. 1960,  
c. 71

(b) "Victoria Hospital Corporation" means a corporation created without share capital under the name Victoria Hospital Corporation by charter issued under *The Corporations Act* on the 19th day of January, 1973;

R.S.O. 1970,  
c. 89

(c) "War Memorial Children's Hospital Endowment Fund" means the Fund created by The Corporation of the City of London under the authority of section 4 of *The City of London Act, 1934* and subsequently assigned and transferred under the authority of section 2 of *The City of London Act, 1972* to Victoria Hospital Corporation;

1934, c. 82

1972, c. 181

(d) "War Memorial Children's Hospital Improvement Fund" means a Fund by that name under the management and control of Victoria Hospital Corporation as it existed on the 31st day of December, 1973, comprising the principal sum of \$636,196.43.

Vesting and  
transfer of  
trust funds

2. All trust and endowment funds of every nature and kind held by Victoria Hospital Corporation for the benefit of War Memorial Children's Hospital which are now vested in and are under the control of Victoria Hospital Corporation, including War Memorial Children's Hospital Endowment Fund but not including War Memorial Children's Hospital Improvement Fund, are hereby vested in and belong to The War Memorial Children's Hospital of Western Ontario, to be used and administered in accordance with the purposes defined by the deed, will or other instruments creating such trust or endowment.

Charitable  
gifts

3. All gifts, trusts, bequests, devises and grants of real or personal property or of the income or proceeds thereof, heretofore or hereafter expressed by any person, body politic or corporation by deed, will or other instrument in writing to be made, given or conveyed or intended to be made, given or conveyed to War Memorial Children's Hospital shall, in so far as the same shall not have been vested in possession or been carried into effect at the date of the coming into force of this Act, in the absence of any expressed intention to the contrary set out in such deed, will or other instrument

in writing be construed as though the same had been expressed to be made to The War Memorial Children's Hospital of Western Ontario and the executor, trustee or other person or corporation charged with the duty of carrying into effect or administering such deed, will or other instrument in writing shall pay over or transfer all such moneys and property to The War Memorial Children's Hospital of Western Ontario as and when the same becomes or may become payable, and the receipt of The War Memorial Children's Hospital of Western Ontario shall be a sufficient discharge therefor.

4. The War Memorial Children's Hospital of Western Ontario shall have the power to invest moneys not immediately required for its objects in investments authorized under *The Trustee Act* for the investment of trust funds

Power to  
invest  
moneys

R.S.O. 1970,  
c. 470

5. Subsection 1 of section 4 of *The City of London Act, 1973* (No. 2), being chapter 195, is amended by striking out "or War Memorial Children's Hospital" in the sixth and seventh lines.

s. 4 (1),  
amended

6. Sections 5 and 6, and section 7 as re-enacted by the Statutes of Ontario, 1948, chapter 114, section 3, of *The City of London Act, 1934*, are repealed.

Repeals

7. This Act comes into force on the day it receives Royal Assent.

Commence-  
ment

8. This Act may be cited as *The Victoria Hospital-War Memorial Children's Hospital, London, Act, 1974*.

Short title

1. The first part of the paper is devoted to a general  
discussion of the problem. It is shown that the  
problem is of great importance in the theory of  
differential equations. The problem is to find the  
general solution of the differential equation  
 $y'' + p(x)y' + q(x)y = r(x)$  where  $p(x)$ ,  $q(x)$  and  $r(x)$  are  
arbitrary functions of  $x$ . The general solution of this  
equation is given by the formula  
 $y = y_1 + y_2 + y_3$  where  $y_1$ ,  $y_2$  and  $y_3$  are  
particular solutions of the homogeneous equation  
 $y'' + p(x)y' + q(x)y = 0$  and  $y_3$  is a particular  
solution of the inhomogeneous equation.  
The particular solutions  $y_1$ ,  $y_2$  and  $y_3$  are found  
by the method of variation of parameters. The  
method consists in assuming that the particular  
solution has the form  
 $y = u_1 y_1 + u_2 y_2 + u_3 y_3$  where  $u_1$ ,  $u_2$  and  $u_3$  are  
functions of  $x$  to be determined. Substituting  
this expression for  $y$  into the differential equation  
and equating the coefficients of  $y_1$ ,  $y_2$  and  $y_3$  to  
zero, we obtain a system of three linear equations  
for  $u_1$ ,  $u_2$  and  $u_3$ . This system can be solved  
by the method of determinants. The solutions of  
this system are substituted into the expression for  
 $y$  to obtain the particular solutions  $y_1$ ,  $y_2$  and  
 $y_3$ . The general solution of the differential equation  
is then given by the formula  
 $y = y_1 + y_2 + y_3$  where  $y_1$ ,  $y_2$  and  $y_3$  are  
particular solutions of the homogeneous equation  
and  $y_3$  is a particular solution of the inhomogeneous  
equation.





An Act respecting Victoria Hospital  
Corporation and The War Memorial  
Children's Hospital of Western Ontario

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*1st Reading*

April 2nd, 1974

*2nd Reading*

*3rd Reading*

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MR. WALKER

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*(Reprinted as amended by the  
Private Bills Committee)*

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# **BILL Pr18**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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## **An Act respecting Victoria Hospital Corporation and The War Memorial Children's Hospital of Western Ontario**

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MR. WALKER

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BILL Pr18

1974

**An Act respecting  
Victoria Hospital Corporation and  
The War Memorial Children's Hospital  
of Western Ontario**

**W**HEREAS Victoria Hospital Corporation and The War Memorial Children's Hospital of Western Ontario hereby represent that the Advisory Council of War Memorial Children's Hospital, London, is an unincorporated association lacking legal status, being the successor to the efforts of The Women's Committee which efforts resulted in the erection of War Memorial Children's Hospital, in London, Ontario, hereinafter referred to as "War Memorial Children's Hospital", as a War Memorial, which said hospital is under the management and control of Victoria Hospital Corporation; that the efforts of the Advisory Council have resulted in the donation of moneys entrusted or endowed for the use and benefit of War Memorial Children's Hospital and in possession or expectancy of Victoria Hospital Corporation; that The War Memorial Children's Hospital of Western Ontario is the successor to the work of the Advisory Council of War Memorial Children's Hospital, being incorporated under the provisions of *The Corporations Act*, being chapter 71 of the Revised Statutes of Ontario, 1960, by letters patent dated the 5th day of February, 1971, without share capital whose objects include the providing and maintaining of facilities for research in all the various branches of medicine, and the raising, collecting and accepting of donations, gifts and legacies, for its objects; that it is expedient that the said trust and endowment moneys should be transferred into the control and management of The War Memorial Children's Hospital of Western Ontario for the benefit of War Memorial Children's Hospital; and whereas the applicants hereby apply for special legislation for such purposes; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Interpre-  
tation

## 1. In this Act,

- (a) "The War Memorial Children's Hospital of Western Ontario" means a corporation created without share capital under the name, The War Memorial Children's Hospital of Western Ontario, by charter issued under *The Corporations Act* on the 5th day of February, 1971;

R.S.O. 1960,  
c. 71

- (b) "Victoria Hospital Corporation" means a corporation created without share capital under the name Victoria Hospital Corporation by charter issued under *The Corporations Act* on the 19th day of January, 1973;

R.S.O. 1970,  
c. 89

- (c) "War Memorial Children's Hospital Endowment Fund" means the Fund created by The Corporation of the City of London under the authority of section 4 of *The City of London Act, 1934* and subsequently assigned and transferred under the authority of section 2 of *The City of London Act, 1972* to Victoria Hospital Corporation;

1934, c. 82

1972, c. 181

- (d) "War Memorial Children's Hospital Improvement Fund" means a Fund by that name under the management and control of Victoria Hospital Corporation as it existed on the 31st day of December, 1973, comprising the principal sum of \$636,196.43.

Vesting and  
transfer of  
trust funds

2. All trust and endowment funds of every nature and kind held by Victoria Hospital Corporation for the benefit of War Memorial Children's Hospital which are now vested in and are under the control of Victoria Hospital Corporation, including War Memorial Children's Hospital Endowment Fund but not including War Memorial Children's Hospital Improvement Fund, are hereby vested in and belong to The War Memorial Children's Hospital of Western Ontario, to be used and administered in accordance with the purposes defined by the deed, will or other instruments creating such trust or endowment.

Charitable  
gifts

3. All gifts, trusts, bequests, devises and grants of real or personal property or of the income or proceeds thereof, heretofore or hereafter expressed by any person, body politic or corporation by deed, will or other instrument in writing to be made, given or conveyed or intended to be made, given or conveyed to War Memorial Children's Hospital shall, in so far as the same shall not have been vested in possession or been carried into effect at the date of the coming into force of this Act, in the absence of any expressed intention to the contrary set out in such deed, will or other instrument

in writing be construed as though the same had been expressed to be made to The War Memorial Children's Hospital of Western Ontario and the executor, trustee or other person or corporation charged with the duty of carrying into effect or administering such deed, will or other instrument in writing shall pay over or transfer all such moneys and property to The War Memorial Children's Hospital of Western Ontario as and when the same becomes or may become payable, and the receipt of The War Memorial Children's Hospital of Western Ontario shall be a sufficient discharge therefor.

4. The War Memorial Children's Hospital of Western Ontario shall have the power to invest moneys not immediately required for its objects in investments authorized under *The Trustee Act* for the investment of trust funds. Power to invest moneys  
R.S.O. 1970,  
c. 470

5. Subsection 1 of section 4 of *The City of London Act, 1973* (No. 2), being chapter 195, is amended by striking out "or War Memorial Children's Hospital" in the sixth and seventh lines. s. 4 (1),  
amended

6. Sections 5 and 6, and section 7 as re-enacted by the Statutes of Ontario, 1948, chapter 114, section 3, of *The City of London Act, 1934*, are repealed. Repeals

7. This Act comes into force on the day it receives Royal Assent. Commence-  
ment

8. This Act may be cited as *The Victoria Hospital-War Memorial Children's Hospital, London, Act, 1974*. Short title









An Act respecting Victoria Hospital  
Corporation and The War Memorial  
Children's Hospital of Western Ontario

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*1st Reading*

April 2nd, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. WALKER

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act respecting the Borough of North York**

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**MR. BALES**

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OF THE  
ROYAL SOCIETY OF LONDON

AND OF THE  
ROYAL SOCIETY OF MEDICINE

1844

BILL Pr19

1974

## An Act respecting the Borough of North York

**W**HEREAS The Corporation of the Borough of North York, herein called the Corporation, hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application; Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The council of the Corporation may by by-law establish a board to be known as "The North York Historical Board", hereinafter called the historical board, and may entrust to the historical board the construction, maintenance, control, operation and management of historic sites and properties owned or acquired by the Corporation within the Borough of North York. Historical board authorised

2. The historical board shall be a local board and a body politic and corporate and shall consist of a member of council, a member of the board of control and fifteen other members, each of whom shall be appointed by council on the nomination of the board of control, and no appointment shall be made by the council in the absence of such nomination except on the affirmative vote of at least two-thirds of the members of council present and voting. Incorporation and members

3. The member of the board of control and the member of council may be appointed for the whole or any part of the unexpired part of their term as members of council and the fifteen other members, who shall not be members of council, shall be appointed for not more than three years. Idem

4. Of the fifteen other members of the first historical board, five shall be appointed for the period ending the 31st day of December, 1974, five for the period ending the Term of office

31st day of December, 1975, and five for the period ending the 31st day of December, 1976.

Idem

5. In the year 1975 and in each year thereafter, five members shall be appointed and shall continue to be members until their successors are appointed, and shall be eligible for reappointment.

Vacancy

6. In the case of a vacancy from any cause other than the expiration of the term, the member appointed to fill the vacancy shall hold office for the balance of the term of the member whose place is vacant.

Historic sites

7. The council of the Corporation may acquire historic sites and properties and may provide the necessary funds for the objects of the historical board.

Powers of historical board  
R.S.O. 1970,  
c. 26

8. Subject to *The Archaeological and Historic Sites Protection Act*, and to such limitations and restrictions as the council may impose, the historical board may,

- (a) make rules governing its proceedings, the calling of meetings and the conduct of its members and employees;
- (b) appoint a chairman and such other officials and employees as may be deemed necessary;
- (c) require the payment of fees or charges for admission to or the use of properties under its control or supervision and fix such fees and charges;
- (d) sell or distribute objects and literature of historical significance or interest, and sell, within the properties under its control or supervision, souvenirs, articles and refreshments at such prices as the historical board may decide;
- (e) fix visiting hours when any of the properties under its supervision may be open;
- (f) represent the Corporation in matters of historical significance assigned to it by council;
- (g) mark or supervise the marking of historic sites and properties designated by council within the municipality;
- (h) negotiate and enter into agreements with property owners relating to the erection and main-



tenance of historical markers on properties not owned by the Corporation;

- (i) produce, copy and distribute historical publications and documents relating to the history of the Borough of North York;
- (j) carry out such other duties relating to the history and development of the Borough of North York as may be assigned to it by council.

9. The members of the historical board shall serve without remuneration. Remuneration

10. A member shall cease to be a member of the historical board if he absents himself from three successive meetings of the historical board without being authorized so to do by a resolution of the historical board entered upon its minutes. Seat to become vacant by absence

11. A quorum of the historical board shall consist of seven members. Quorum

12. The historical board shall keep minutes of its meetings, and shall keep all papers and documents pertaining to the business of the historical board, and all books, documents and files kept by the historical board shall be open to the inspection of the members of council or of any other person or persons appointed for that purpose by council. Minutes, documents

13. The historical board shall submit to the board of control an annual budget of its estimated revenues and expenditures in a form satisfactory to the borough treasurer, and when money is provided by council, the treasurer shall pay out such money as the historical board may from time to time require. Budget and expenditures

14. The historical board shall deposit and keep on deposit with the borough treasurer insurance policies indemnifying the Corporation against public liability and property damage in respect of the properties under the control or supervision of the historical board. Insurance

15. Immediately after the end of each year, the historical board shall submit its annual report to council, including a complete audited and certified financial statement of its affairs, with revenue and expense account, balance sheet and profit and loss statement. Annual report

**Audit**

**16.** The borough auditor shall be the auditor of the historical board and all books, documents, transactions, minutes and accounts of the historical board shall at all times be open to his inspection.

**Payment of expenses**

**17.** The historical board shall apply the revenue received by it to the payment of its expenses in the performance of its functions, provided that it may apply any funds donated to the historical board by a private donor to the specific purpose designated by the donor.

**Net revenue**

**18.** Except as to any funds received from a private donor for a specific purpose, the historical board shall pay over any net revenue to the Corporation.

**Debentures and acquisition of land**

**19.** The powers, rights and authority of the Corporation to acquire lands or to raise money for the acquisition of lands or the construction of buildings shall not be transferred to the historical board.

**Amendment or repeal of by-law**

**20.** The council of the Corporation may by by-law repeal or amend from time to time any by-law passed under the authority of this Act and, upon the passing of a by-law to repeal, the historical board shall cease to exist and the whole of its undertaking, property, documents and other assets shall be and become vested in the Corporation, and be subject to the control and management of council, and for such purpose it shall not be requisite that any conveyance, transfer or assignment be executed or made.

**Commencement**

**21.** This Act comes into force on the day it receives Royal Assent.

**Short title**

**22.** This Act may be cited as *The Borough of North York Act, 1974*.



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*1st Reading*

*2nd Reading*

*3rd Reading*

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MR. BALES

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*(Private Bill)*

# **BILL Pr19**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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## **An Act respecting the Borough of North York**

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MR. BALES

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TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO





BILL Pr19

1974

## An Act respecting the Borough of North York

**W**HEREAS The Corporation of the Borough of North York, herein called the Corporation, hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application; Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The council of the Corporation may by by-law establish a board to be known as "The North York Historical Board", hereinafter called the historical board, and may entrust to the historical board the construction, maintenance, control, operation and management of historic sites and properties owned or acquired by the Corporation within the Borough of North York. Historical board authorized

2. The historical board shall be a local board and a body politic and corporate and shall consist of a member of council, a member of the board of control and fifteen other members, each of whom shall be appointed by council on the nomination of the board of control, and no appointment shall be made by the council in the absence of such nomination except on the affirmative vote of at least two-thirds of the members of council present and voting. Incorporation and members

3. The member of the board of control and the member of council may be appointed for the whole or any part of the unexpired part of their term as members of council and the fifteen other members, who shall not be members of council, shall be appointed for not more than three years. Idem

4. Of the fifteen other members of the first historical board, five shall be appointed for the period ending the 31st day of December, 1974, five for the period ending the Term of office

31st day of December, 1975, and five for the period ending the 31st day of December, 1976.

**Idem**

**5.** In the year 1975 and in each year thereafter, five members shall be appointed and shall continue to be members until their successors are appointed, and shall be eligible for reappointment.

**Vacancy**

**6.** In the case of a vacancy from any cause other than the expiration of the term, the member appointed to fill the vacancy shall hold office for the balance of the term of the member whose place is vacant.

**Historic sites**

**7.** The council of the Corporation may acquire historic sites and properties and may provide the necessary funds for the objects of the historical board.

**Powers of historical board  
R.S.O. 1970,  
c. 26**

**8.** Subject to *The Archaeological and Historic Sites Protection Act*, and to such limitations and restrictions as the council may impose, the historical board may,

- (a) make rules governing its proceedings, the calling of meetings and the conduct of its members and employees;
- (b) appoint a chairman and such other officials and employees as may be deemed necessary;
- (c) require the payment of fees or charges for admission to or the use of properties under its control or supervision and fix such fees and charges;
- (d) sell or distribute objects and literature of historical significance or interest, and sell, within the properties under its control or supervision, souvenirs, articles and refreshments at such prices as the historical board may decide;
- (e) fix visiting hours when any of the properties under its supervision may be open;
- (f) represent the Corporation in matters of historical significance assigned to it by council;
- (g) mark or supervise the marking of historic sites and properties designated by council within the municipality;
- (h) negotiate and enter into agreements with property owners relating to the erection and main-

tenance of historical markers on properties not owned by the Corporation;

- (i) produce, copy and distribute historical publications and documents relating to the history of the Borough of North York;
- (j) carry out such other duties relating to the history and development of the Borough of North York as may be assigned to it by council.

**9.** The members of the historical board shall serve without remuneration. Remuneration

**10.** A member shall cease to be a member of the historical board if he absents himself from three successive meetings of the historical board without being authorized so to do by a resolution of the historical board entered upon its minutes. Seat to become vacant by absence

**11.** A quorum of the historical board shall consist of seven members. Quorum

**12.** The historical board shall keep minutes of its meetings, and shall keep all papers and documents pertaining to the business of the historical board, and all books, documents and files kept by the historical board shall be open to the inspection of the members of council or of any other person or persons appointed for that purpose by council. Minutes, documents

**13.** The historical board shall submit to the board of control an annual budget of its estimated revenues and expenditures in a form satisfactory to the borough treasurer, and when money is provided by council, the treasurer shall pay out such money as the historical board may from time to time require. Budget and expenditures

**14.** The historical board shall deposit and keep on deposit with the borough treasurer insurance policies indemnifying the Corporation against public liability and property damage in respect of the properties under the control or supervision of the historical board. Insurance

**15.** Immediately after the end of each year, the historical board shall submit its annual report to council, including a complete audited and certified financial statement of its affairs, with revenue and expense account, balance sheet and profit and loss statement. Annual report



- Audit**            **16.** The borough auditor shall be the auditor of the historical board and all books, documents, transactions, minutes and accounts of the historical board shall at all times be open to his inspection.
- Payment of expenses**    **17.** The historical board shall apply the revenue received by it to the payment of its expenses in the performance of its functions, provided that it may apply any funds donated to the historical board by a private donor to the specific purpose designated by the donor.
- Net revenue**        **18.** Except as to any funds received from a private donor for a specific purpose, the historical board shall pay over any net revenue to the Corporation.
- Debentures and acquisition of land**    **19.** The powers, rights and authority of the Corporation to acquire lands or to raise money for the acquisition of lands or the construction of buildings shall not be transferred to the historical board.
- Amendment or repeal of by-law**    **20.** The council of the Corporation may by by-law repeal or amend from time to time any by-law passed under the authority of this Act and, upon the passing of a by-law to repeal, the historical board shall cease to exist and the whole of its undertaking, property, documents and other assets shall be and become vested in the Corporation, and be subject to the control and management of council, and for such purpose it shall not be requisite that any conveyance, transfer or assignment be executed or made.
- Commencement**        **21.** This Act comes into force on the day it receives Royal Assent.
- Short title**            **22.** This Act may be cited as *The Borough of North York Act, 1974*.



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*1st Reading*

April 2nd, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. BALES

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act respecting the City of Toronto**

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**MR. WARDLE**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**



BILL Pr20

1974

## An Act respecting the City of Toronto

**W**HEREAS The Corporation of the City of Toronto, <sup>Preamble</sup> herein called the Corporation, hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 4a of section 6 of *The City of Toronto Act*, 1936, c. 84, being chapter 84, as enacted by the Statutes of Ontario, <sup>s. 6 (4a), amended</sup> 1971, chapter 130, section 3, is amended by inserting after "made" in the third line "or upon breach of any term or condition imposed pursuant to subsection 4".

2. Section 18 of *An Act respecting the City of Toronto*, 1911, c. 119, being chapter 119 of the Statutes of Ontario, 1911, as re-enacted <sup>s. 18, amended</sup> by the Statutes of Ontario, 1958, chapter 160, section 3, is amended by striking out "\$12,000" in the fourth line and inserting in lieu thereof "\$24,000".

3. The Corporation may pay in whole or in part, the cost of clearing any blockage of a private drain, caused by a tree on the highway, subject to such conditions as the council of the Corporation may prescribe from time to time, any liability of the Corporation in respect thereof notwithstanding. <sup>Payments respecting blockage of private drains</sup>

4.—(1) In this section, "dwelling" has the same meaning as in subsection 1 of section 6 of *The City of Toronto Act*, 1936, being chapter 84, as re-enacted by the Statutes of Ontario, 1967, chapter 131, section 6. <sup>Interpretation</sup>

(2) The Corporation may make a grant or loan to an owner of a dwelling to pay for the whole or any part of the cost of rehabilitating the dwelling in such amount and upon such terms and conditions as the council may prescribe. <sup>Grants or loans for rehabilitation of dwellings</sup>

(3) The amount of any loan made under this section together with interest, if any, at a rate to be fixed by council <sup>Lien</sup>

shall be repayable to the Corporation by the owner of the dwelling over such period as the council may prescribe, in the same manner and at the same time as the municipal real property taxes in respect of the said dwelling, and such amount and interest shall, until repayment thereof, be a lien or charge upon the dwelling in respect of which the loan was made, but notwithstanding the foregoing, upon the dwelling ceasing to be owned by the owner to or for whose benefit the loan was made or upon breach of any term or condition imposed under subsection 2, the amount of the loan and interest in their full remaining balance may, at the option of the Corporation become immediately due and payable and may be collected in the same manner as municipal real property taxes.

Certificate  
of lien for  
registration

(4) A certificate of the clerk of the Corporation setting out the amount loaned or to be loaned to or for the benefit of an owner under this section, including the rate of interest thereon, if any, together with a description of the dwelling in respect of which any such loan has been made or is to be made sufficient for registration, shall be registered in the proper land registry office against the dwelling upon proof by affidavit of the signature of the clerk, and upon repayment in full to the Corporation of the amount loaned and interest thereon, if any, a certificate of the said clerk showing such repayment shall be similarly registered and thereupon the lien or charge upon the dwelling in respect of which the loan was made is discharged.

Use of  
Parking  
Authority  
surplus

5. Notwithstanding any general or special Act or any order of the Ontario Municipal Board, where under or pursuant to any general or special Act or order of the Ontario Municipal Board moneys are available to be applied for the acquisition, laying out or improvement of additional parking lots or facilities and the construction of buildings thereon or thereunder or any of such purposes, all or any part of the moneys so available may, at the option of the council of the Corporation, be used for any lawful purpose of the Corporation.

1936, c. 84,  
s. 6 (20),  
amended

6. Subsection 20 of section 6 of *The City of Toronto Act, 1936*, being chapter 84, as enacted by the Statutes of Ontario, 1967, chapter 131, section 6, is amended by adding at the end thereof "but notwithstanding anything contained in this Act or in any order made under this Act, a copy of an order sent or caused to be sent by prepaid registered mail in accordance with this subsection shall not entitle the owner to appeal to the housing standards appeal committee and any order so sent shall be clearly marked to that effect".

1971, c. 130,  
s. 11 (13),  
amended

7. Subsection 13 of section 11 of *The City of Toronto Act, 1971*, being chapter 130, is amended by adding at the end thereof "but notwithstanding anything contained in this Act



or in any order made under this Act, a copy of an order sent or caused to be sent by prepaid registered mail in accordance with this subsection shall not entitle the owner to appeal to the non-residential standards appeal committee and any order so sent shall be clearly marked to that effect".

8.—(1) The council of the Corporation may pass by-laws to designate any defined area or areas within the City of Toronto as a demolition control area.

By-laws  
respecting  
demolition  
control  
areas

(2) Notwithstanding any general or special Act or by-law passed thereunder, upon the coming into force of a by-law passed under subsection 1 and for a period of six months thereafter, no building or structure or part of a building or structure situate within an area defined by the by-law shall be demolished except where in the opinion of the council a building or structure or part of a building or structure is in an unsafe condition and incapable of repair nor shall any permit to demolish be issued where a permit is required except as aforesaid.

Effect

(3) Every person who demolishes or authorizes the demolition of any building or structure or part of a building or structure contrary to subsection 2 is guilty of an offence and shall pay a penalty of \$2,000 for each and every building or structure or part of a building or structure so demolished and part XXI of *The Municipal Act* applies *mutatis mutandis*.

Penalty

R.S.O. 1970,  
c. 284

(4) Where during the six-month period referred to in subsection 2 a study of such area, which in the opinion of the council is subject to redevelopment pressures, has been initiated for the purpose of recommending policies for adoption by way of amendment to the official plan under *The Planning Act* for such area and the council is of the opinion that demolition of buildings or structures or parts of buildings or structures or any class or classes thereof may prejudice the effectiveness of any such policy, the council may by by-law,

Power to  
make by-laws  
respecting  
demolition of  
buildings,  
etc.

R.S.O. 1970,  
c. 349

- (a) prohibit in the whole or any part of such area the demolition of buildings or structures or parts of buildings or structures or any class or classes thereof;
- (b) provide that no permit shall be issued to demolish any building or structure or part of a building or structure of a class covered by the by-law where a permit is required except where, in the opinion of the council, such building or structure or part of a building or structure is in an unsafe condition and incapable of repair.

## Duration

(5) A by-law passed under subsection 4 comes into force on the day the six-month period referred to in subsection 2 expires and continues in force for a period of two years thereafter, provided that where within that two-year period an amendment to the official plan for the area covered by the by-law is submitted to the Minister of Housing such by-law continues in force until such amendment has been finally approved or rejected in accordance with *The Planning Act*.

R.S.O. 1970,  
c. 349

## Right to permit

(6) No person shall acquire any right to a permit for the demolition of any building or structure or part of a building or structure of a class covered by the by-law where such permit is required by reason only of his having applied for such permit before or during the six-month period referred to in subsection 2 or after a by-law has been passed under subsection 4.

## Application to council

(7) A person who feels himself aggrieved by a by-law passed under subsection 4 may apply to the council for relief therefrom and where it is of the opinion that the granting of the application does not prejudice the effectiveness of a policy referred to in the said subsection, the council may grant an application and direct a permit to be issued.

## Appeal to O.M.B.

(8) Where an application to the council under subsection 7 is refused or the council refuses or neglects to make a decision thereon within two months after the receipt by the clerk of the application, the applicant may appeal to the Ontario Municipal Board and where the Ontario Municipal Board is of the opinion that the granting of the application does not prejudice the effectiveness of a policy referred to in subsection 4, the Ontario Municipal Board may grant the appeal and direct a permit to be issued but otherwise shall dismiss the appeal.

## Approval of O.M.B.

(9) Subject to subsection 6, no by-law passed under subsection 4 comes into force without the approval of the Ontario Municipal Board.

## Application of Acts and by-laws respecting standards of maintenance, etc.

(10) During the six-month period referred to in subsection 2 and while a by-law passed under subsection 4 is in effect, any general or special Act respecting standards for the maintenance and occupancy of buildings and structures and any by-law passed thereunder remain in full force and effect subject to the provisions of subsection 2 or the provisions of a by-law passed under subsection 4, as the case may be.

## Penalty

(11) A by-law passed under subsection 4 may provide that every person who demolishes or authorizes the demolition of



a building or structure contrary to the by-law is guilty of an offence and shall pay a penalty of \$2,000 for each and every building or structure or part of a building or structure so demolished and Part XXI of *The Municipal Act* <sup>R.S.O. 1970, c. 284</sup> applies *mutatis mutandis*.

9. This Act comes into force on the day it receives Royal <sup>Commence-</sup> Assent. <sup>ment</sup>

10. This Act may be cited as *The City of Toronto Act, 1974*. <sup>Short title</sup>

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*1st Reading*

March 26th, 1974

*2nd Reading*

*3rd Reading*

---

MR. WARDLE

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(*Private Bill*)

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting the City of Toronto**

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**MR. WARDLE**

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*(Reprinted as amended by the Private Bills Committee)*

1942, March 1

1942, March 1

1942, March 1

1942, March 1

# BILL Pr20 1974

## An Act respecting the City of Toronto

**W**HEREAS The Corporation of the City of Toronto, Preamble  
 herein called the Corporation, hereby applies for special  
 legislation in respect of the matters hereinafter set forth;  
 and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent  
 of the Legislative Assembly of the Province of Ontario, enacts  
 as follows:

1. Subsection 4a of section 6 of *The City of Toronto Act*, 1936, c. 84,  
s. 6 (4a),  
amended  
 1936, being chapter 84, as enacted by the Statutes of Ontario,  
 1971, chapter 130, section 3, is amended by inserting after  
 "made" in the third line "or upon breach of any term or  
 condition imposed pursuant to subsection 4".

2. Section 18 of *An Act respecting the City of Toronto*, 1911, c. 119,  
s. 18,  
amended  
 being chapter 119 of the Statutes of Ontario, 1911, as re-enacted  
 by the Statutes of Ontario, 1958, chapter 160, section 3, is  
 amended by striking out "\$12,000" in the fourth line and  
 inserting in lieu thereof "\$24,000".

3. The Corporation may pay in whole or in part, the cost Payments  
respecting  
blockage of  
private  
drains  
 of clearing any blockage of a private drain, caused by a tree on  
 the highway, subject to such conditions as the council of the  
 Corporation may prescribe from time to time, any liability  
 of the Corporation in respect thereof notwithstanding.

4.—(1) In this section, "dwelling" has the same meaning Interpre-  
tation  
 as in subsection 1 of section 6 of *The City of Toronto Act, 1936*,  
 being chapter 84, as re-enacted by the Statutes of Ontario,  
 1967, chapter 131, section 6.

(2) The Corporation may make a grant or loan to an owner Grants or  
loans for  
rehabilita-  
tion of  
dwellings  
 of a dwelling to pay for the whole or any part of the cost of  
 rehabilitating the dwelling in such amount and upon such  
 terms and conditions as the council may prescribe.

(3) The amount of any loan made under this section to- Lien  
 gether with interest, if any, at a rate to be fixed by council



shall be repayable to the Corporation by the owner of the dwelling over such period as the council may prescribe, in the same manner and at the same time as the municipal real property taxes in respect of the said dwelling, and such amount and interest shall, until repayment thereof, be a lien or charge upon the dwelling in respect of which the loan was made, but notwithstanding the foregoing, upon the dwelling ceasing to be owned by the owner to or for whose benefit the loan was made or upon breach of any term or condition imposed under subsection 2, the amount of the loan and interest in their full remaining balance may, at the option of the Corporation become immediately due and payable and may be collected in the same manner as municipal real property taxes.

Certificate  
of lien for  
registration

(4) A certificate of the clerk of the Corporation setting out the amount loaned or to be loaned to or for the benefit of an owner under this section, including the rate of interest thereon, if any, together with a description of the dwelling in respect of which any such loan has been made or is to be made sufficient for registration, shall be registered in the proper land registry office against the dwelling upon proof by affidavit of the signature of the clerk, and upon repayment in full to the Corporation of the amount loaned and interest thereon, if any, a certificate of the said clerk showing such repayment shall be similarly registered and thereupon the lien or charge upon the dwelling in respect of which the loan was made is discharged.

1936, c. 84,  
s. 6 (20),  
amended

5. Subsection 20 of section 6 of *The City of Toronto Act, 1936*, being chapter 84, as enacted by the Statutes of Ontario, 1967, chapter 131, section 6, is amended by adding at the end thereof "but notwithstanding anything contained in this Act or in any order made under this Act, a copy of an order sent or caused to be sent by prepaid registered mail in accordance with this subsection shall not entitle the owner to appeal to the housing standards appeal committee and any order so sent shall be clearly marked to that effect".

1971, c. 130,  
s. 11 (13),  
amended

6. Subsection 13 of section 11 of *The City of Toronto Act, 1971*, being chapter 130, is amended by adding at the end thereof "but notwithstanding anything contained in this Act or in any order made under this Act, a copy of an order sent or caused to be sent by prepaid registered mail in accordance with this subsection shall not entitle the owner to appeal to the non-residential standards appeal committee and any order so sent shall be clearly marked to that effect".

Commence-  
ment

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. This Act may be cited as *The City of Toronto Act, 1974*.









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*1st Reading*

March 26th, 1974

*2nd Reading*

*3rd Reading*

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MR. WARDLE

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*(Reprinted as amended by the  
Private Bills Committee)*

# **BILL Pr20**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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## **An Act respecting the City of Toronto**

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MR. WARDLE

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BILL Pr20

1974

## An Act respecting the City of Toronto

**W**HEREAS The Corporation of the City of Toronto, Preamble  
 herein called the Corporation, hereby applies for special  
 legislation in respect of the matters hereinafter set forth;  
 and whereas it is expedient to grant the application:

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 1911, being chapter 119 of the Statutes of Ontario, 1911, as re-enacted s. 18, amended  
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 amended by striking out "\$12,000" in the fourth line and  
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**3.** The Corporation may pay in whole or in part, the cost Payments  
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 of clearing any blockage of a private drain, caused by a tree on  
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 Corporation may prescribe from time to time, any liability  
 of the Corporation in respect thereof notwithstanding.

**4.**—(1) In this section, "dwelling" has the same meaning Interpre-  
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 as in subsection 1 of section 6 of *The City of Toronto Act*, 1936,  
 being chapter 84, as re-enacted by the Statutes of Ontario,  
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(2) The Corporation may make a grant or loan to an owner Grants or  
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 rehabilitation  
 of  
 dwellings  
 of a dwelling to pay for the whole or any part of the cost of  
 rehabilitating the dwelling in such amount and upon such  
 terms and conditions as the council may prescribe.

(3) The amount of any loan made under this section to- Lien  
 gether with interest, if any, at a rate to be fixed by council

shall be repayable to the Corporation by the owner of the dwelling over such period as the council may prescribe, in the same manner and at the same time as the municipal real property taxes in respect of the said dwelling, and such amount and interest shall, until repayment thereof, be a lien or charge upon the dwelling in respect of which the loan was made, but notwithstanding the foregoing, upon the dwelling ceasing to be owned by the owner to or for whose benefit the loan was made or upon breach of any term or condition imposed under subsection 2, the amount of the loan and interest in their full remaining balance may, at the option of the Corporation become immediately due and payable and may be collected in the same manner as municipal real property taxes.

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(4) A certificate of the clerk of the Corporation setting out the amount loaned or to be loaned to or for the benefit of an owner under this section, including the rate of interest thereon, if any, together with a description of the dwelling in respect of which any such loan has been made or is to be made sufficient for registration, shall be registered in the proper land registry office against the dwelling upon proof by affidavit of the signature of the clerk, and upon repayment in full to the Corporation of the amount loaned and interest thereon, if any, a certificate of the said clerk showing such repayment shall be similarly registered and thereupon the lien or charge upon the dwelling in respect of which the loan was made is discharged.

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5. Subsection 20 of section 6 of *The City of Toronto Act, 1936*, being chapter 84, as enacted by the Statutes of Ontario, 1967, chapter 131, section 6, is amended by adding at the end thereof "but notwithstanding anything contained in this Act or in any order made under this Act, a copy of an order sent or caused to be sent by prepaid registered mail in accordance with this subsection shall not entitle the owner to appeal to the housing standards appeal committee and any order so sent shall be clearly marked to that effect".

1971, c. 130,  
s. 11 (13),  
amended

6. Subsection 13 of section 11 of *The City of Toronto Act, 1971*, being chapter 130, is amended by adding at the end thereof "but notwithstanding anything contained in this Act or in any order made under this Act, a copy of an order sent or caused to be sent by prepaid registered mail in accordance with this subsection shall not entitle the owner to appeal to the non-residential standards appeal committee and any order so sent shall be clearly marked to that effect".

Commence-  
ment

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. This Act may be cited as *The City of Toronto Act, 1974*.







*1st Reading*

March 26th, 1974

*2nd Reading*

May 31st, 1974

*3rd Reading*

June 3rd, 1974

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MR. WARDLE

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting The University of Western Ontario**

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**MR. WALKER**

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BILL Pr21

1974

## An Act respecting The University of Western Ontario

**W**HEREAS The University of Western Ontario hereby Preamble  
applies for special legislation varying the provisions of  
its Act of incorporation in relation to its organization,  
government and administration; and whereas it is expedient  
to grant the application;

Therefore, Her Majesty, by and with the advice and  
consent of the Legislative Assembly of the Province of  
Ontario, enacts as follows:

1.—(1) In this Act, except as otherwise provided herein, Interpre-  
tation

- (a) "academic staff" means those persons employed by the University whose duties are primarily those of performing and administering the teaching and research functions and who are included in the instructor, lecturer and professorial ranks;
- (b) "academic unit" means a faculty, school, college or other academic division however designated by the University which offers programs leading to a degree;
- (c) "academic year" means the academic year as determined by the University;
- (d) "administrative staff" means those employees of the University who are not members of the academic staff;
- (e) "Board" means The Board of Governors, The University of Western Ontario;
- (f) "Faculty" means the full-time members of the academic staff of the University including the Vice-Chancellor and academic Deans and such of the part-time members of the academic staff of

the University as the Senate may from time to time determine;

- (g) "membership year" means any twelve-month period or periods established from time to time by the Board and by the Senate, respectively;
- (h) "property" means all property, both real and personal;
- (i) "real property" means messuages, lands, tenements and hereditaments, whether corporeal or incorporeal, and any undivided share thereof and any estate or interest therein;
- (j) "Senate" means the Senate of The University of Western Ontario;
- (k) "student" means any person who is registered as a full-time or part-time student in an academic unit of the University, but does not include a student of an affiliated college;
- (l) "University" means The University of Western Ontario, but does not include any college affiliated with the University.

Conflict with  
R.S.O. 1970,  
c. 89

(2) In the event of conflict between any provision of this Act and any provision of *The Corporations Act*, the provision of this Act prevails.

University  
continued

**2.** The University, commonly known as "Western", the Board and Senate and the statutes and regulations of, appointments in and affiliation of colleges with, the University, existing at the time this Act comes into force, are and each of them is hereby continued, subject to this Act.

Religious  
tests not  
required

**3.** The government, management and control of the University shall continue to be undenominational and no religious test shall be required of any officer, member of the academic or the administrative staffs, employee or student of the University, nor shall any religious observances be imposed.

Proceedings  
by or against  
University

**4.** All proceedings by or against the University may be had and taken in the name of "The University of Western Ontario".

#### GRANTS

Grants by  
City of  
London

**5.** The City of London may grant annually or from time to time to the University such sum as the City and the



University may agree upon, without obtaining the assent of the electors qualified to vote on money by-laws for such grant, except that any grant exceeding in any one year \$1 per capita of population as determined by the last yearly census as returned to the clerk by the assessment commissioner shall first receive the assent of the electors.

6. Grants to the Board for the use of the University may be made without obtaining the assent of the electors qualified to vote on money by-laws for such grant by, Grants by counties, etc.

(a) the county council of any of the counties of Brant, Bruce, Elgin, Essex, Grey, Huron, Kent, Lambton, Middlesex, Oxford, Perth and Wellington;

(b) the council of The Regional Municipality of Haldimand-Norfolk and the council of The Regional Municipality of Waterloo;

(c) the council of any regional municipality hereafter established within the area described in clause a; and

(d) the council of any municipality, other than the City of London, in such counties or regional municipalities,

but any such grant in excess of \$20,000 in any one year shall first receive the assent of the electors.

#### PROPERTY

7. All property heretofore or hereafter granted, conveyed, devised or bequeathed by any person, firm or corporation in trust for or for the benefit of the University or of any academic unit or department thereof or otherwise in connection therewith, subject to the trust affecting the same, vests in the Board. Property in trust vested in Board

8.—(1) All real property vested in the Board shall, as far as the application of any statute of limitations is concerned, including any statute limiting or defining the period for the investigation of titles, be deemed to have been and to be real property vested in the Crown for the public use of the Province of Ontario. Application of statute of limitations to property

(2) The University has, in addition to the powers, rights and privileges mentioned in section 26 of *The Interpretation Act*, power to purchase or otherwise acquire, take or receive, by gift, bequest or devise, and to hold and enjoy without Power to deal with realty and personally R.S.O. 1970, c. 225

licence in mortmain and without limitation as to the period of holding any estate or property whatsoever, whether real or personal, and to sell, grant, convey, mortgage, lease or otherwise dispose of the same or any part thereof from time to time and as occasion may require, and to acquire other estate or property in addition thereto or in place thereof.

Land vested  
in Board not  
liable to  
expropria-  
tion

**9.** Real property vested in the Board shall not be liable to be entered upon, used or taken by any corporation except a municipal corporation or by any person possessing the right of taking land compulsorily for any purpose and no power to expropriate real property hereafter conferred shall extend to such real property unless the Act conferring the power applies thereto in express terms.

#### THE BOARD OF GOVERNORS

Board  
continued

**10.** The Board of Governors of the University is hereby continued as a body corporate by the name and style of "The Board of Governors, The University of Western Ontario".

Composition  
of Board

**11.—(1)** The Board shall consist of,

R.S.O. 1970,  
c. 284

- (a) The President of the University, the Mayor of the City of London (or an alternate appointed under the provisions of *The Municipal Act*), the Warden of the County of Middlesex (or an alternate appointed under the provisions of *The Municipal Act*), and the Chancellor of the University, who shall be *ex officio* members;
- (b) four persons appointed by the council of the City of London;
- (c) four persons appointed by the Lieutenant Governor in Council;
- (d) two persons appointed or elected by the Alumni Association of the University;
- (e) four members of the Faculty of whom,
  - (i) two shall be members of the Senate at the time of election and be elected by the Senate, and
  - (ii) two shall be elected by the Faculty from among those members of Faculty of the rank of assistant professor or higher who have held academic appointments at the University for at least four academic years;



(f) three students of whom,

(i) two shall be undergraduate students at the time of election and be elected by the undergraduate students, and

(ii) one graduate student elected by the graduate students,

provided that an undergraduate student shall not be eligible for election unless registered at the University in an academic year prior to the academic year in which such election occurs;

(g) two members of the full-time administrative staff elected thereby;

(h) four persons elected by the members appointed or elected under clauses *b*, *c*, *d*, *e*, *f*, and *g*; and

(i) such Vice-Presidents as are appointed to the Board by the members appointed or elected under clauses *b*, *c*, *d*, *e*, *f*, *g*, and *h*, which appointments may be terminated at any time.

(2) Subject to section 18, the failure to appoint or elect a member as provided in subsection 1 does not invalidate the composition of the Board, and, where a default continues for three months after an appointment or election should have been made, the remaining members of the Board may, but shall not be obliged to, elect a member eligible to fill the vacancy. Failure to elect or appoint

(3) The members to be elected under subsection 1 shall be elected in accordance with such procedures as shall be determined and established by the Board, but in the election of members under clause *e*, *f* or *g* of that subsection, the election shall be by secret ballot. Election procedures

**12.**—(1) Except as provided in this section, each member of the Board shall hold office for four membership years, shall be eligible for reappointment or re-election, as the case may be, and if otherwise eligible shall hold office until a successor is appointed or elected. Term of office

(2) Subject to subsection 4, a student elected to the Board under clause *f* of subsection 1 of section 11 shall hold office for a term of two membership years. Idem

- Idem** (3) No member shall hold office for more than two consecutive terms, excluding therefrom the balance of an unexpired term for a person appointed or elected thereto under section 15, or a term reduced under subsection 4.
- Staggered terms of office** (4) Prior to the first appointments or elections of members after this Act comes into force, the Board shall provide where necessary for staggered terms of office.
- Saving** (5) This section shall not apply to an *ex officio* member of the Board or to a member appointed under clause *i* of subsection 1 of section 11.
- Eligibility** **13.** Except as provided in clauses *a*, *e*, *f*, *g* and *i* of subsection 1 of section 11, no person who is a member of the academic staff or administrative staff, or a student of the University or an affiliated college, or who is a member of the governing body, faculty, staff or student body of any other degree-granting institution, is eligible for appointment or election as a member of the Board.
- Membership vacated** **14.**—(1) Where a member of the Board ceases to be eligible for appointment or election to the Board, resigns or becomes incapable of acting as a member, the Board by resolution shall declare such membership vacant.
- Meetings** (2) Where within any membership year a member of the Board, other than an *ex officio* member, not having been granted leave of absence by the Board, attends less than 50 per cent of the regular meetings of the Board, the Board by resolution may declare such membership vacant.
- Idem** (3) Where within any membership year a member of the Board, other than an *ex officio* member, not having been granted leave of absence by the Board, attends less than 25 per cent of the regular meetings of the Board, the Board by resolution shall declare such membership vacant.
- Proof** (4) A resolution declaring a vacancy, entered in the minutes of the Board, is conclusive evidence of the vacancy.
- Filling vacancies** **15.** Where a vacancy on the Board occurs before the term of office for which a person has been appointed or elected has expired,
- (a) if the vacancy is that of an appointed member, the vacancy may be filled by the same authority which appointed the person whose membership is vacant; and

- (b) if the vacancy is that of an elected member, the Board in its sole discretion shall determine if the vacancy is to be filled and, if so, the manner and procedure for doing so,

and a person appointed or elected hereunder shall hold office for the remainder of the term of office of the person whose membership is vacant.

**16.**—(1) The Board shall elect a chairman and a vice-chairman from among the members appointed or elected under clauses *b*, *c*, *d*, and *h* of subsection 1 of section 11, and in the case of the absence or illness of the chairman or of there being a vacancy in that office, the vice-chairman shall act as and have all the powers of the chairman. Chairman and vice-chairman

(2) In the case of absence or illness of the chairman and vice-chairman or of there being vacancies in these offices, the Board may appoint one of its members appointed or elected under clauses *b*, *c*, *d* and *h* of subsection 1 of section 11 to act as chairman for the time being and the member so appointed shall act as and have all the powers of the chairman. Absence

(3) The term of office of the chairman and vice-chairman shall be as determined by the Board. Term of office

**17.** The quorum of the Board, to be designated by by-law of the Board, shall consist of not fewer than ten members, at least one-half of whom shall consist of members of the Board appointed or elected, as the case may be, under clauses *b*, *c*, *d* and *h* of subsection 1 of section 11. Quorum

**18.** The Board may exercise any of its powers as long as there are at least sixteen members in office, not including *ex officio* members and members appointed under clause *i* of subsection 1 of section 11. Exercise of powers

**19.** A member of the Board or of a committee created by it who is in any way interested in a proposed contract with the University shall declare his interest at any meeting at which the proposed contract is considered, shall withdraw from the meeting during any discussion of such contract and shall not vote thereon. Interest in work of the Board

**20.** Except in such matters as are assigned by this Act to the Senate or other body, the government, conduct, management and control of the University and of its property and affairs are vested in the Board, and the Board may do such things as it considers to be for the good of the University and consistent with the public interest. Management of the University



**21.** Without limiting the generality of section 20, the Board may,

- (a) appoint the President and Vice-Chancellor, but before so acting, the Board shall request a recommendation from a committee, to be convened by the chairman of the Board, composed of five members of the Board named by it, and five persons named by the Senate, which committee shall appoint its own chairman and determine its own procedure, and any recommendation of the committee shall be made in writing signed by at least eight members and delivered to the Board within nine months of the date on which the Board names five members to the committee or the date on which the Board requests the Senate to name five persons to the committee, whichever date is later, and, failing a recommendation within that period, the Board may appoint the President;
- (b) on the recommendation of the President, appoint as many Vice-Presidents as the Board and the Senate may consider necessary, the heads of all academic units within the University, the Chief Librarian, the Registrar, the Secretary of the Senate, the professors and all other members of the academic staff of the University, but all such appointments made by the Board shall be in accordance with the policies and procedures established by the Senate;
- (c) appoint all other employees the Board may consider necessary;
- (d) fix and provide for the remuneration, tenure of office or employment, retirement and superannuation, or other conditions of employment of the persons mentioned in clauses *a*, *b* and *c*, which employment, in the absence of contract or policy of tenure, shall be at the pleasure of the Board, and determine their functions, duties and powers, but the policies and procedures followed in respect of persons appointed under clause *b* shall be adopted and promulgated after consultation with the Senate, and such other bodies within the University as may be appropriate;
- (e) expend such sums as may be required to establish funds for the payment of gratuities, retirement allowances, pensions, life insurance or other insurance, including health insurance, for the benefit of the persons mentioned in clauses *a*, *b* and *c*;

- (f) establish procedures pertaining to the meetings of the Board and its transactions, create committees to exercise any of its powers and delegate authority to individuals or committees created by it;
- (g) appoint by resolution or by-law a member or members of the Board or any other person or persons to execute on behalf of the Board either documents and other instruments in writing generally or specific documents and other instruments in writing and to affix the corporate seal of the Board thereto;
- (h) fix the fees to be paid for instruction under the control of the University, for all ancillary activities and for examinations, degrees, diplomas and certificates;
- (i) provide such means for health services and health examination for students as the Board may see fit;
- (j) expend such sums as the Board considers necessary for the support and maintenance of the University and for the betterment of existing buildings and for the furnishing and equipment of existing and newly erected buildings and, having first requested the advice of the Senate, for the erection of such new buildings as the Board considers necessary for the use or purposes of the University;
- (k) subject to the limitations imposed by any trust, invest all such money as shall come to the University in such manner as the Board may see fit;
- (l) borrow from time to time such sums of money as may be required for the use of the University, and give such security against the assets of the University by way of mortgage or otherwise as the Board may determine;
- (m) apply for, purchase and otherwise deal with inventions, trademarks, trade names, copyright or similar rights or interests therein in any manner that the Board considers necessary;
- (n) pass resolutions and make recommendations to the Senate with respect to any matter connected with the administration of the University and the promotion of its affairs, but this power shall not be interpreted as subtracting from the powers and duties conferred on the Senate by this Act.

Idem

**22.** On the recommendation of the Senate, the Board may,

- (a) establish or terminate academic units, departments, chairs and programs of instruction in the University or elsewhere, but the Senate shall determine the curricula of all programs of instruction;
- (b) enter into agreements for the founding or establishment of chairs, scholarships, fellowships, prizes, bursaries and other awards;
- (c) provide for the affiliation with the University of any college in Ontario offering courses leading to a degree and established for teaching any branch of learning on such terms as the Board may determine, and enter into any agreement that the Board may consider necessary to effectuate affiliation, and in order to preserve the undenominational nature of the University no more than two colleges of the same denominational control shall be affiliated with the University at the same time, and no college affiliated with the University shall be affiliated with or have affiliated with it any other college, school or institution of higher learning without specific permission in writing by the Board;
- (d) provide for the dissolution, modification or alteration of the terms of any affiliation; and
- (e) provide for the government and control of residences operated and maintained by the University.

Authentica-  
tion of  
by-laws, etc.

**23.** Except as otherwise provided in this Act, the Board may act by resolution or by-law authenticated in a manner prescribed by the Board.

Audit of  
accounts  
R.S.O. 1970,  
c. 373

**24.—(1)** The Board shall appoint one or more auditors licensed under *The Public Accountancy Act* to audit the accounts and transactions of the Board at least once a year.

Annual  
report

(2) The Board shall make a financial report annually to the Minister of Colleges and Universities in such form and containing such information as the Minister may require.

Tabling

(3) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.



(4) The Board shall make available to the academic staff, <sup>idem</sup> administrative staff and students, an annual report including an annual financial report in such form and manner as the Board may determine.

**25.** Where any question arises as to the powers or duties <sup>Questions as to powers</sup> of the President and Vice-Chancellor, a Vice-President, a member of the Faculty or any senior administrative officer of the University, the Board after consultation with the Senate shall settle and determine the matter in accordance with this Act, and the decision of the Board shall be final.

#### SENATE

**26.** (1) There shall be a Senate of the University <sup>Senate how composed</sup> composed of,

(a) the following *ex officio* members,

- (i) the Chancellor,
- (ii) the Vice-Chancellor,
- (iii) such Vice-Presidents as the Senate may determine,
- (iv) the Deans of the academic units given Faculty representation under clause b,
- (v) the Director of Summer School and Extension,
- (vi) the Chief Librarian,
- (vii) the Registrar, and
- (viii) the Secretary of Senate,

of whom the Chancellor, the Director of Summer School and Extension, the Chief Librarian, the Registrar and the Secretary of the Senate shall be non-voting members;

(b) members of the Faculty, elected in the following numbers,

- (i) Faculty of Graduate Studies —four members,
- (ii) Faculty of Arts —four members,
- (iii) Faculty of Medicine —four members,

- |  |                |
|--|----------------|
| (iv) Faculty of Science  | —four members, |
| (v) Faculty of Social Science  | —four members, |
| (vi) Faculty of Dentistry  | —one member,   |
| (vii) Faculty of Education   | —one member,   |
| (viii) Faculty of Engineering<br>Science   | —one member,   |
| (ix) Faculty of Law  | —one member,   |
| (x) Faculty of Music   | —one member,   |
| (xi) Faculty of Nursing  | —one member,   |
| (xii) Faculty of Physical<br>Education   | —one member,   |
| (xiii) School of Business<br>Administration  | —one member,   |
| (xiv) School of Library and<br>Information Science   | —one member,   |
| (xv) Subject to approval by<br>two-thirds of the members<br>of Senate, any other<br>academic unit that may be<br>established hereafter | —one member;   |
- (c) two members of the Board appointed by the Board from among its members appointed or elected under clauses *b*, *c*, *d* and *h* of subsection 1 of section 11;
- (d) two members from each affiliated college, one of whom shall be the academic head of that college and the other a person elected as provided in section 27, who shall have voice in all matters but shall not vote on resolutions, recommendations or requests submitted to the Board where such matters do not directly involve the affiliated colleges as shall be determined by the Senate;
- (e) fifteen students of whom,
- (i) twelve shall be undergraduate students of the University and its affiliated colleges and be elected by such undergraduate students, and

(ii) three shall be graduate students elected by the graduate students; and

(f) five persons from the general community, one of whom shall be active in or associated with the field of secondary school education, consisting of,

(i) the President of the Alumni Association of the University or a person designated by such President, and two members of the Association appointed by the Association, and

(ii) two persons appointed by the Senate.

(2) Upon an application by the Senate approved by at least two-thirds of the members of Senate, the Lieutenant Governor in Council may make regulations varying the number of members set out in clauses *b*, *d* and *e* of subsection 1. Regulation to vary number of members

(3) The Vice-Chancellor shall be the chairman of the Senate, and a vice-chairman shall be elected from among its members in such manner as the Senate may establish. Officers

(4) Where the Senate grants leave of absence to any member, the Senate may provide, in such manner as it determines, for an alternate member who shall have all the powers of a member of the Senate. Alternates

**27.**—(1) The election of a member of Senate under clause *b* or *d* of subsection 1 of section 26 shall be by secret ballot of the members of the academic unit or affiliated college to be represented who hold the rank of assistant professor or higher, but in all other respects such an election shall be in accordance with the manner and procedures established and determined by the Senate. Election of members

(2) No person is eligible for election to the Senate under clause *b* or *d* of subsection 1 of section 26 unless he is a member of the academic unit or affiliated college to be represented, holds the rank of assistant professor or higher and has held an academic appointment in the University or affiliated college for at least two academic years. Idem

(3) The election of a member of Senate under clause *e* of subsection 1 of section 26 shall be by secret ballot and for a term of one membership year, but in all other respects such an election shall be in accordance with the manner and procedures established and determined by the Senate. Idem



## Disputes

(4) The Senate shall rule on any dispute which may arise as to eligibility to vote or to hold office under subsections 1, 2 and 3 and its decision shall be final.

## Term of office

(5) A member of the Senate, other than an *ex officio* member or a member elected under clause *e* of subsection 1 of section 26, shall hold office for a term of two membership years and is not eligible to be appointed or elected for more than two consecutive terms, excluding therefrom the balance of an unexpired term for a person appointed or elected under section 29 or a term reduced under subsection 6, but is eligible for reappointment or re-election after a lapse of two years after the expiration of the second of two consecutive terms.

## Idem

(6) Prior to the first appointments or elections of members after this Act comes into force, the Senate shall provide where necessary for staggered terms of office.

## Vacating office

**28.**—(1) Where an appointed or elected member of the Senate resigns, becomes incapable of acting as a member or ceases to be eligible for appointment or election, the Senate shall by resolution declare such membership vacant, save that a student member who graduates during his term of office may complete such term.

## Idem

(2) Where within any membership year a member of the Senate, other than an *ex officio* member, not having been granted leave of absence by the Senate attends less than 50 per cent of the regular meetings of the Senate, the Senate may by resolution declare such membership vacant.

## Idem

(3) Where within any membership year a member of the Senate, other than an *ex officio* member, not having been granted leave of absence by the Senate attends less than 25 per cent of the regular meetings of the Senate, the Senate shall by resolution declare such membership vacant.

## Resolution final

(4) A resolution passed under this section entered into the minutes of the Senate shall be conclusive evidence of the vacancy declared therein.

## Filling vacancies

**29.** Where a vacancy on the Senate occurs before the term of office for which a person has been appointed or elected has expired,

- (a) if the vacancy is that of an appointed member, the vacancy may be filled by the same authority which appointed the person whose membership is vacant; and

- (b) if the vacancy is that of an elected member, the Senate in its sole discretion shall determine if the vacancy is to be filled and, if so, the manner and procedure for doing so,

and a person appointed or elected hereunder shall hold office for the remainder of the term of office of the person whose membership is vacant.

**30.**—(1) The Senate shall meet at least four times an academic year and at such other times as the Senate from time to time may prescribe. Meetings of the Senate

(2) A special meeting of the Senate shall be called on the written notice of any seven members thereof and shall be convened within fifteen days thereafter, to consider the matter or matters set out in the notice. Special meetings

**31.** The Senate is responsible for the academic policy of the University and, without limiting the generality of the foregoing, the Senate shall, Duties of Senate

- (a) create faculty councils or committees and committees generally to exercise any of its powers and shall approve their form and method of operation;
- (b) determine all courses of study, including standards for admission into the University and qualifications for degrees;
- (c) conduct examinations, appoint examiners, and decide finally all matters relating thereto;
- (d) deal with matters arising in connection with the award of fellowships, scholarships, medals, prizes and other awards;
- (e) provide for the convening and conduct of convocations;
- (f) confer honorary degrees in divinity without fee upon the recommendation of any affiliated college having a faculty of theology;
- (g) establish and recommend to the Board policies and procedures to be followed in the selection, appointment, promotion and termination of appointment of the members of the Faculty, and the conditions under which tenure and sabbatical leave are granted;

- (h) in collaboration with the Board create a committee to make recommendations respecting the appointment of the President and Vice-Chancellor as provided in clause *a* of section 21 and shall be consulted before the termination of any appointment so made; and
- (i) make recommendations and give advice to the Board on the matters mentioned in clause *b* of section 21 and in section 22.

Idem

**32.** The Senate may,

- (a) confer degrees and award diplomas and certificates in any branch of learning, taught in the University or in any affiliated college, including theology;
- (b) confer honorary degrees in any branch of learning;
- (c) provide by-laws and regulations for the conduct of its proceedings including the determination of a quorum necessary for the transaction of business;
- (d) establish such committees as the Senate considers necessary, including an executive committee that may act in the name and on behalf of the Senate between regular meetings of the Senate;
- (e) inquire into and publish reports upon any matter that affects the academic reputation or effectiveness of the University; and
- (f) pass resolutions and make recommendations to the Board with respect to any matter connected with the administration of the University and the promotion of its affairs, but this clause shall not be construed to subtract from the powers and duties conferred on the Board elsewhere in this Act.

## THE ASSEMBLY OF THE UNIVERSITY

Assembly  
of the  
University

**33.**—(1) There shall be an advisory body called “The Assembly of the University” composed as follows,

- (a) the Chancellor;
- (b) the Vice-Chancellor, who shall be the chairman of the Assembly;
- (c) the chairman of the Board and four members of the Board appointed by it;



- (d) five members of the Senate appointed by it;
- (e) the Vice-Presidents, the Registrar, and the Secretary of the Senate who shall be the Secretary of the Assembly;
- (f) the Deans of all academic units of the University;
- (g) the academic head of each affiliated college and two other persons appointed by it;
- (h) ten members appointed by the University Students' Council, two members appointed by the Society of Graduate Students and one member appointed by the Masters of Business Administration Association;
- (i) the President and the other members of the executive of the Alumni Association of the University;
- (j) five persons appointed by the council of the City of London, two persons appointed by the Board of Education of the City of London, and one person appointed by the Separate School Board of the City of London;
- (k) the Warden, or one member of the county council appointed by it, of each of the counties named in section 6, and the chairman, or one member of the council appointed by it, of each of the councils of The Regional Municipality of Haldimand-Norfolk and The Regional Municipality of Waterloo;
- (l) one member of the municipal council of each city, other than the City of London, in the counties and regional municipalities named in section 6 appointed by it;
- (m) ten members of the Ontario Secondary Schools Headmasters' Council (South Western Region) appointed by it;
- (n) one member from each of the colleges of applied arts and technology in the counties and regional municipalities named in section 6 appointed by each college;
- (o) the members of Parliament representing the electoral districts of London East, London West, and Middlesex;

- (p) the members of the Legislative Assembly representing the electoral districts of London North, London South, Middlesex North, Middlesex South, and the electoral districts abutting those districts;
- (q) ten members at large appointed by the Board and ten members at large appointed by the Senate; and
- (r) such other persons as the Board and the Senate may by joint action appoint.

Term of  
office

(2) Each member, other than *ex officio* members, shall hold office for such term as the Assembly may from time to time determine.

Meetings of  
Assembly

(3) The President shall convene the Assembly at least once in each academic year to receive and discuss reports from the Vice-Chancellor and from the chairman of the Board concerning the state and aims of the University, to discuss any matter affecting the University and at the request of the Board or of the Senate to advise thereon, and to provide by its meetings a forum whereby liaison between the University and the public may be established and promoted in the furtherance of the University's academic aims and purposes.

#### MEETINGS AND BY-LAWS

Meetings of  
Board and  
Senate open  
to public

**34.**—(1) Subject to subsection 2, the meetings of the Board and of the Senate shall be open to the public and prior notice of such meetings shall be given to the members and to the public in such manner as the Board and the Senate by by-law shall respectively determine, and no person shall be excluded therefrom except for improper conduct but, where confidential matters of the University are being considered, that part of the meeting may be held *in camera*.

Exception

(2) Where matters of a personal nature concerning an individual may be disclosed at a meeting, the part of the meeting concerning such individual shall be held *in camera* unless such individual requests that such part of the meeting be open to the public.

Examination  
of by-laws

(3) The by-laws of the Board and of the Senate shall be open to examination by members of the University community and by the public during normal business hours.

Publication  
of by-laws

(4) The Board and the Senate shall publish their by-laws from time to time in such manner as they may respectively consider proper.

## CHANCELLOR

**35.**—(1) There shall be a Chancellor of the University <sup>Chancellor.</sup> who shall be elected by an electoral board consisting of, <sup>election of</sup>

(a) six members, except *ex officio* members, of the Board, including the chairman of the Board; and

(b) six members of the Senate, including the Vice-Chancellor.

(2) Eight members of the electoral board, including the chairman of the Board and the Vice-Chancellor, constitute a quorum. <sup>Quorum</sup>

(3) No person shall occupy the office of Chancellor who is a <sup>Who</sup> member of the academic or administrative staff of the <sup>ineligible</sup> University or an employee of any affiliated college, or who at the time of his election is a member of the Board or of the governing body of any affiliated college.

**36.** The term of office of the Chancellor shall be for <sup>Term of</sup> four years commencing with the 1st day of July of the year <sup>office</sup> in which he is elected and continuing until his successor is elected, but in any event not longer than six months after the expiration of his term of office, and no Chancellor shall be eligible for re-election.

**37.** Where a vacancy in the office of Chancellor occurs, <sup>Vacancy</sup> the vacancy shall be filled by the election of a successor <sup>in office</sup> in the manner set out in section 35, and such successor shall hold office for four years terminating on the 30th day of June in the fourth year after his election, and no successor shall be eligible for re-election.

**38.** Where the Chancellor ceases to be eligible for such <sup>Where</sup> office, or becomes incapable of acting, or the office becomes <sup>Chancellor</sup> otherwise vacant, a declaration of the existence of a vacancy <sup>becomes</sup> in the office of Chancellor by the Senate and the Board <sup>ineligible</sup> entered in the minutes of the Senate and of the Board is conclusive evidence of the vacancy.

**39.** The Chancellor shall preside at all convocations and <sup>Duties</sup> by virtue of the authority vested in him by the Senate shall admit to degrees, diplomas and certificates such candidates, including the recipients of honorary degrees, as may be requested by the Senate.



## VICE-CHANCELLOR

- Vice-Chancellor**      **40.**—(1) There shall be a Vice-Chancellor of the University who shall be the President of the University.
- Duties**              (2) The Vice-Chancellor and President shall be the chief executive officer of the University and shall call a meeting of and report to the Faculty not less than once in each academic year.
- Vice-Chancellor to act in absence of Chancellor**      (3) In the absence of the Chancellor or there being a vacancy in the office, the Vice-Chancellor or a member of the Faculty appointed by him shall act as Chancellor at Convocation.
- Idem**                (4) In the absence of both Chancellor and Vice-Chancellor or if both offices are vacant, the Chancellor's duties shall be performed by a member of the Faculty appointed by the Senate for the purpose.

## OFFICIAL VISITOR

- Official Visitor**      **41.** The Lieutenant Governor of the Province of Ontario is the Official Visitor of the University.

## GENERAL

- Review**              **42.** The Board and the Senate shall review this Act within ten years from the date of its enactment.
- Former members continue until new Board and Senate constituted**      **43.** The members of the Board and the Senate holding office immediately before this Act comes into force shall continue to hold office and constitute the Board and the Senate under this Act until the members of the Board and Senate are elected or appointed in accordance with this Act.
- Repeal**                **44.** *The University of Western Ontario Act, 1967*, being chapter 134, is repealed.
- Commencement**      **45.** This Act comes into force on the day it receives Royal Assent.
- Short title**            **46.** This Act may be cited as *The University of Western Ontario Act, 1974*.



An Act respecting  
The University of Western Ontario

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*1st Reading*

April 4th, 1974

*2nd Reading*

*3rd Reading*

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MR. WALKER

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(*Private Bill*)



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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting The University of Western Ontario**

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**MR. WALKER**

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*(Reprinted as amended by the Private Bills Committee)*



## **An Act respecting The University of Western Ontario**

**W**HEREAS The University of Western Ontario hereby <sup>Preamble</sup> applies for special legislation varying the provisions of its Act of incorporation in relation to its organization, government and administration; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act, except as otherwise provided herein, <sup>Interpre-</sup>

- (a) "academic staff" means those persons employed by the University whose duties are primarily those of performing and administering the teaching and research functions and who are included in the instructor, lecturer and professorial ranks;
- (b) "academic unit" means a faculty, school, college or other academic division however designated by the University which offers programs leading to a degree;
- (c) "academic year" means the academic year as determined by the University;
- (d) "administrative staff" means those employees of the University who are not members of the academic staff;
- (e) "Board" means The Board of Governors, The University of Western Ontario;
- (f) "Faculty" means the full-time members of the academic staff of the University including the Vice-Chancellor and academic Deans and such of the part-time members of the academic staff of

the University as the Senate may from time to time determine;

- (g) "membership year" means any twelve-month period or periods established from time to time by the Board and by the Senate, respectively;
- (h) "property" means all property, both real and personal;
- (i) "real property" means messuages, lands, tenements and hereditaments, whether corporeal or incorporeal, and any undivided share thereof and any estate or interest therein;
- (j) "Senate" means the Senate of The University of Western Ontario;
- (k) "student" means any person who is registered as a full-time or part-time student in an academic unit of the University, but does not include a student of an affiliated college;
- (l) "University" means The University of Western Ontario, but does not include any college affiliated with the University.

Conflict with  
R.S.O. 1970,  
c. 89

(2) In the event of conflict between any provision of this Act and any provision of *The Corporations Act*, the provision of this Act prevails.

University  
continued

**2.** The University, commonly known as "Western", the Board and Senate and the statutes and regulations of, appointments in and affiliation of colleges with, the University, existing at the time this Act comes into force, are and each of them is hereby continued, subject to this Act.

Religious  
tests not  
required

**3.** The government, management and control of the University shall continue to be undenominational and no religious test shall be required of any officer, member of the academic or the administrative staffs, employee or student of the University, nor shall any religious observances be imposed.

Proceedings  
by or against  
University

**4.** All proceedings by or against the University may be had and taken in the name of "The University of Western Ontario".

#### GRANTS

Grants by  
City of  
London

**5.** The City of London may grant annually or from time to time to the University such sum as the City and the



University may agree upon, without obtaining the assent of the electors qualified to vote on money by-laws for such grant, except that any grant exceeding in any one year \$1 per capita of population as determined by the last yearly census as returned to the clerk by the assessment commissioner shall first receive the assent of the electors.

6. Grants to the Board for the use of the University may be made without obtaining the assent of the electors qualified to vote on money by-laws for such grant by, Grants by counties, etc.

- (a) the county council of any of the counties of Brant, Bruce, Elgin, Essex, Grey, Huron, Kent, Lambton, Middlesex, Oxford, Perth and Wellington;
- (b) the council of The Regional Municipality of Haldimand-Norfolk and the council of The Regional Municipality of Waterloo;
- (c) the council of any regional municipality hereafter established within the area described in clause a; and
- (d) the council of any municipality, other than the City of London, in such counties or regional municipalities,

but any such grant in excess of \$20,000 in any one year shall first receive the assent of the electors.

#### PROPERTY

7. All property heretofore or hereafter granted, conveyed, devised or bequeathed by any person, firm or corporation in trust for or for the benefit of the University or of any academic unit or department thereof or otherwise in connection therewith, subject to the trust affecting the same, vests in the Board. Property in trust vested in Board

8.—(1) All real property vested in the Board shall, as far as the application of any statute of limitations is concerned, including any statute limiting or defining the period for the investigation of titles, be deemed to have been and to be real property vested in the Crown for the public use of the Province of Ontario. Application of statute of limitations to property

(2) The University has, in addition to the powers, rights and privileges mentioned in section 26 of *The Interpretation Act*, power to purchase or otherwise acquire, take or receive, by gift, bequest or devise, and to hold and enjoy without Power to deal with realty and personally R.S.O. 1970, c. 225

licence in mortmain and without limitation as to the period of holding any estate or property whatsoever, whether real or personal, and to sell, grant, convey, mortgage, lease or otherwise dispose of the same or any part thereof from time to time and as occasion may require, and to acquire other estate or property in addition thereto or in place thereof.

Land vested  
in Board not  
liable to  
expropria-  
tion

**9.** Real property vested in the Board shall not be liable to be entered upon, used or taken by any corporation except a municipal corporation or by any person possessing the right of taking land compulsorily for any purpose and no power to expropriate real property hereafter conferred shall extend to such real property unless the Act conferring the power applies thereto in express terms.

#### THE BOARD OF GOVERNORS

Board  
continued

**10.** The Board of Governors of the University is hereby continued as a body corporate by the name and style of "The Board of Governors, The University of Western Ontario".

Composition  
of Board

**11.—(1)** The Board shall consist of,

R.S.O. 1970,  
c. 284

- (a) The President of the University, the Mayor of the City of London (or an alternate appointed under the provisions of *The Municipal Act*), the Warden of the County of Middlesex (or an alternate appointed under the provisions of *The Municipal Act*), and the Chancellor of the University, who shall be *ex officio* members;
- (b) four persons appointed by the council of the City of London;
- (c) four persons appointed by the Lieutenant Governor in Council;
- (d) two persons appointed or elected by the Alumni Association of the University;
- (e) four members of the Faculty of whom,
  - (i) two shall be members of the Senate at the time of election and be elected by the Senate, and
  - (ii) two shall be elected by the Faculty from among those members of Faculty of the rank of assistant professor or higher who have held academic appointments at the University for at least four academic years;



(f) three students of whom,

(i) two shall be undergraduate students at the time of election and be elected by the undergraduate students, and

(ii) one graduate student elected by the graduate students,

provided that an undergraduate student shall not be eligible for election unless registered at the University in an academic year prior to the academic year in which such election occurs;

(g) two members of the full-time administrative staff elected thereby;

(h) four persons elected by the members appointed or elected under clauses *b*, *c*, *d*, *e*, *f*, and *g*; and

(i) such Vice-Presidents as are appointed to the Board by the members appointed or elected under clauses *b*, *c*, *d*, *e*, *f*, *g*, and *h*, which appointments may be terminated at any time.

(2) Subject to section 18, the failure to appoint or elect a member as provided in subsection 1 does not invalidate the composition of the Board, and, where a default continues for three months after an appointment or election should have been made, the remaining members of the Board may, but shall not be obliged to, elect a member eligible to fill the vacancy. Failure to elect or appoint

(3) The members to be elected under subsection 1 shall be elected in accordance with such procedures as shall be determined and established by the Board, but in the election of members under clause *e*, *f* or *g* of that subsection, the election shall be by secret ballot. Election procedures

**12.**—(1) Except as provided in this section, each member of the Board shall hold office for four membership years, shall be eligible for reappointment or re-election, as the case may be, and if otherwise eligible shall hold office until a successor is appointed or elected. Term of office

(2) Subject to subsection 4, a student elected to the Board under clause *f* of subsection 1 of section 11 shall hold office for a term of two membership years. Idem

- Idem** (3) No member shall hold office for more than two consecutive terms, excluding therefrom the balance of an unexpired term for a person appointed or elected thereto under section 15, or a term reduced under subsection 4, but any such member shall again be eligible for reappointment or re-election after a lapse of two years after the expiration of the second of two consecutive terms.
- Staggered terms of office** (4) Prior to the first appointments or elections of members after this Act comes into force, the Board shall provide where necessary for staggered terms of office.
- Saving** (5) This section shall not apply to an *ex officio* member of the Board or to a member appointed under clause *i* of subsection 1 of section 11.
- Eligibility** **13.**—(1) Except as provided in clauses *a, e, f, g* and *i* of subsection 1 of section 11, no person who is a member of the academic staff or administrative staff, or a student of the University or an affiliated college, or who is a member of the governing body, faculty, staff or student body of any other degree-granting institution, is eligible for appointment or election as a member of the Board.
- Canadian citizenship** (2) Subject to subsection 3, no person is eligible as a member of the Board unless he is a Canadian citizen.
- Saving** (3) Subsection 2 does not apply to a person who was a member of the Board on the day before this Act comes into force.
- Membership vacated** **14.**—(1) Where a member of the Board ceases to be eligible for appointment or election to the Board, resigns or becomes incapable of acting as a member, the Board by resolution shall declare such membership vacant.
- Meetings** (2) Where within any membership year a member of the Board, other than an *ex officio* member, not having been granted leave of absence by the Board, attends less than 50 per cent of the regular meetings of the Board, the Board by resolution may declare such membership vacant.
- Idem** (3) Where within any membership year a member of the Board, other than an *ex officio* member, not having been granted leave of absence by the Board, attends less than 25 per cent of the regular meetings of the Board, the Board by resolution shall declare such membership vacant.
- Proof** (4) A resolution declaring a vacancy, entered in the minutes of the Board, is conclusive evidence of the vacancy.

**15.** Where a vacancy on the Board occurs before the term of office for which a person has been appointed or elected has expired, <sup>Filling vacancies</sup>

- (a) if the vacancy is that of an appointed member, the vacancy may be filled by the same authority which appointed the person whose membership is vacant; and
- (b) if the vacancy is that of an elected member, the Board in its sole discretion shall determine if the vacancy is to be filled and, if so, the manner and procedure for doing so,

and a person appointed or elected hereunder shall hold office for the remainder of the term of office of the person whose membership is vacant.

**16.**—(1) The Board shall elect a chairman and a vice-chairman from among the members appointed or elected under clauses *b*, *c*, *d*, and *h* of subsection 1 of section 11, and in the case of the absence or illness of the chairman or of there being a vacancy in that office, the vice-chairman shall act as and have all the powers of the chairman. <sup>Chairman and vice-chairman</sup>

(2) In the case of absence or illness of the chairman and vice-chairman or of there being vacancies in these offices, the Board may appoint one of its members appointed or elected under clauses *b*, *c*, *d* and *h* of subsection 1 of section 11 to act as chairman for the time being and the member so appointed shall act as and have all the powers of the chairman. <sup>Absence</sup>

(3) The term of office of the chairman and vice-chairman shall be as determined by the Board. <sup>Term of office</sup>

**17.** The quorum of the Board, to be designated by by-law of the Board, shall consist of not fewer than ten members, at least one-half of whom shall consist of members of the Board appointed or elected, as the case may be, under clauses *b*, *c*, *d* and *h* of subsection 1 of section 11. <sup>Quorum</sup>

**18.** The Board may exercise any of its powers as long as there are at least sixteen members in office, not including *ex officio* members and members appointed under clause *i* of subsection 1 of section 11. <sup>Exercise of powers</sup>

**19.** A member of the Board or of a committee created by it who is in any way interested in a proposed contract with the University shall declare his interest at any meeting at which the proposed contract is considered, shall with- <sup>Interest in work of the Board</sup>



draw from the meeting during any discussion of such contract and shall not vote thereon.

Management  
of the  
University

**20.** Except in such matters as are assigned by this Act to the Senate or other body, the government, conduct, management and control of the University and of its property and affairs are vested in the Board, and the Board may do such things as it considers to be for the good of the University and consistent with the public interest.

Powers of  
the Board

**21.** Without limiting the generality of section 20, the Board may,

- (a) appoint the President and Vice-Chancellor, but before so acting, the Board shall request a recommendation from a committee, to be convened by the chairman of the Board, composed of five members of the Board named by it, and five persons named by the Senate, which committee shall appoint its own chairman and determine its own procedure, and any recommendation of the committee shall be made in writing signed by at least eight members and delivered to the Board within nine months of the date on which the Board names five members to the committee or the date on which the Board requests the Senate to name five persons to the committee, whichever date is later, and, failing a recommendation within that period, the Board may appoint the President;
- (b) on the recommendation of the President, appoint as many Vice-Presidents as the Board and the Senate may consider necessary, the heads of all academic units within the University, the Chief Librarian, the Registrar, the Secretary of the Senate, the professors and all other members of the academic staff of the University, but all such appointments made by the Board shall be in accordance with the policies and procedures established by the Senate;
- (c) appoint all other employees the Board may consider necessary;
- (d) fix and provide for the remuneration, tenure of office or employment, retirement and superannuation, or other conditions of employment of the persons mentioned in clauses *a*, *b* and *c*, which employment, in the absence of contract or policy of tenure, shall be at the pleasure of the Board, and determine their functions, duties and powers, but the policies and procedures followed in respect

of persons appointed under clause *b* shall be adopted and promulgated after consultation with the Senate, and such other bodies within the University as may be appropriate;

- (*e*) expend such sums as may be required to establish funds for the payment of gratuities, retirement allowances, pensions, life insurance or other insurance, including health insurance, for the benefit of the persons mentioned in clauses *a*, *b* and *c*;
- (*f*) establish procedures pertaining to the meetings of the Board and its transactions, create committees to exercise any of its powers and delegate authority to individuals or committees created by it;
- (*g*) appoint by resolution or by-law a member or members of the Board or any other person or persons to execute on behalf of the Board either documents and other instruments in writing generally or specific documents and other instruments in writing and to affix the corporate seal of the Board thereto;
- (*h*) fix the fees to be paid for instruction under the control of the University, for all ancillary activities and for examinations, degrees, diplomas and certificates;
- (*i*) provide such means for health services and health examination for students as the Board may see fit;
- (*j*) expend such sums as the Board considers necessary for the support and maintenance of the University and for the betterment of existing buildings and for the furnishing and equipment of existing and newly erected buildings and, having first requested the advice of the Senate, for the erection of such new buildings as the Board considers necessary for the use or purposes of the University;
- (*k*) subject to the limitations imposed by any trust, invest all such money as shall come to the University in such manner as the Board may see fit;
- (*l*) borrow from time to time such sums of money as may be required for the use of the University, and give such security against the assets of the University by way of mortgage or otherwise as the Board may determine;

- (m) apply for, purchase and otherwise deal with inventions, trademarks, trade names, copyright or similar rights or interests therein in any manner that the Board considers necessary;
- (n) pass resolutions and make recommendations to the Senate with respect to any matter connected with the administration of the University and the promotion of its affairs, but this power shall not be interpreted as subtracting from the powers and duties conferred on the Senate by this Act.

Idem

**22.** On the recommendation of the Senate, the Board may,

- (a) establish or terminate academic units, departments, chairs and programs of instruction in the University or elsewhere, but the Senate shall determine the curricula of all programs of instruction;
- (b) enter into agreements for the founding or establishment of chairs, scholarships, fellowships, prizes, bursaries and other awards;
- (c) provide for the affiliation with the University of any college in Ontario offering courses leading to a degree and established for teaching any branch of learning on such terms as the Board may determine, and enter into any agreement that the Board may consider necessary to effectuate affiliation, and in order to preserve the undenominational nature of the University no more than two colleges of the same denominational control shall be affiliated with the University at the same time, and no college affiliated with the University shall be affiliated with or have affiliated with it any other college, school or institution of higher learning without specific permission in writing by the Board;
- (d) provide for the dissolution, modification or alteration of the terms of any affiliation; and
- (e) provide for the government and control of residences operated and maintained by the University.

Authenticat-  
ion of  
by-laws, etc.

**23.** Except as otherwise provided in this Act, the Board may act by resolution or by-law authenticated in a manner prescribed by the Board.

Audit of  
accounts  
R.S.O. 1970,  
c. 373

**24.—(1)** The Board shall appoint one or more auditors licensed under *The Public Accountancy Act* to audit the accounts and transactions of the Board at least once a year.



(2) The Board shall make a financial report annually <sup>Annual report</sup> to the Minister of Colleges and Universities in such form and containing such information as the Minister may require.

(3) The Minister shall submit the report to the Lieutenant <sup>Tabling</sup> Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

(4) The Board shall make available to the academic staff, <sup>Idem</sup> administrative staff and students, an annual report including an annual financial report in such form and manner as the Board may determine.

**25.** Where any question arises as to the powers or duties <sup>Questions as to powers</sup> of the President and Vice-Chancellor, a Vice-President, a member of the Faculty or any senior administrative officer of the University, the Board after consultation with the Senate shall settle and determine the matter in accordance with this Act, and the decision of the Board shall be final.

#### SENATE

**26.**—(1) There shall be a Senate of the University <sup>Senate. how composed</sup> composed of,

(a) the following *ex officio* members,

- (i) the Chancellor,
- (ii) the Vice-Chancellor,
- (iii) such Vice-Presidents as the Senate may determine,
- (iv) the Deans of the academic units given Faculty representation under clause b,
- (v) the Director of Summer School and Extension,
- (vi) the Chief Librarian,
- (vii) the Registrar, and
- (viii) the Secretary of Senate,

of whom the Chancellor, the Director of Summer School and Extension, the Chief Librarian, the Registrar and the Secretary of the Senate shall be non-voting members;

(b) members of the Faculty, elected in the following numbers,

- (i) Faculty of Graduate Studies —four members,
- (ii) Faculty of Arts —four members,
- (iii) Faculty of Medicine —four members,
- (iv) Faculty of Science —four members,
- (v) Faculty of Social Science —four members,
- (vi) Faculty of Dentistry —one member,
- (vii) Faculty of Education —one member,
- (viii) Faculty of Engineering  
Science —one member,
- (ix) Faculty of Law —one member,
- (x) Faculty of Music —one member,
- (xi) Faculty of Nursing —one member,
- (xii) Faculty of Physical  
Education —one member,
- (xiii) School of Business  
Administration —one member,
- (xiv) School of Library and  
Information Science —one member,
- (xv) Subject to approval by  
two-thirds of the members  
of Senate, any other  
academic unit that may be  
established hereafter —one member;

(c) two members of the Board appointed by the Board from among its members appointed or elected under clauses *b*, *c*, *d* and *h* of subsection 1 of section 11;

(d) two members from each affiliated college, one of whom shall be the academic head of that college and the other a person elected as provided in section 27, who shall have voice in all matters but shall not vote on resolutions, recommendations or requests submitted to the Board where such

matters do not directly involve the affiliated colleges as shall be determined by the Senate;

(e) fifteen students of whom,

- (i) twelve shall be undergraduate students of the University and its affiliated colleges and be elected by such undergraduate students, and
  - (ii) three shall be graduate students elected by the graduate students; and
- (f) five persons from the general community, one of whom shall be active in or associated with the field of secondary school education, consisting of,
- (i) the President of the Alumni Association of the University or a person designated by such President, and two members of the Association appointed by the Association, and
  - (ii) two persons appointed by the Senate.

(2) Upon an application by the Senate approved by at least two-thirds of the members of Senate, the Lieutenant Governor in Council may make regulations varying the number of members set out in clauses *b*, *d* and *e* of subsection 1. Regulation to vary number of members

(3) The Vice-Chancellor shall be the chairman of the Senate, and a vice-chairman shall be elected from among its members in such manner as the Senate may establish. Officers

(4) Where the Senate grants leave of absence to any member, the Senate may provide, in such manner as it determines, for an alternate member who shall have all the powers of a member of the Senate. Alternates

**27.**—(1) The election of a member of Senate under clause *b* or *d* of subsection 1 of section 26 shall be by secret ballot of the members of the academic unit or affiliated college to be represented who hold the rank of assistant professor or higher, but in all other respects such an election shall be in accordance with the manner and procedures established and determined by the Senate. Election of members

(2) No person is eligible for election to the Senate under clause *b* or *d* of subsection 1 of section 26 unless he is a member of the academic unit or affiliated college to be Idem



represented, holds the rank of assistant professor or higher and has held an academic appointment in the University or affiliated college for at least two academic years.

Idem

(3) The election of a member of Senate under clause *e* of subsection 1 of section 26 shall be by secret ballot and for a term of one membership year, but in all other respects such an election shall be in accordance with the manner and procedures established and determined by the Senate.

Disputes

(4) The Senate shall rule on any dispute which may arise as to eligibility to vote or to hold office under subsections 1, 2 and 3 and its decision shall be final.

Term of office

(5) A member of the Senate, other than an *ex officio* member or a member elected under clause *e* of subsection 1 of section 26, shall hold office for a term of two membership years and is not eligible to be appointed or elected for more than two consecutive terms, excluding therefrom the balance of an unexpired term for a person appointed or elected under section 29 or a term reduced under subsection 6, but is eligible for reappointment or re-election after a lapse of two years after the expiration of the second of two consecutive terms.

Idem

(6) Prior to the first appointments or elections of members after this Act comes into force, the Senate shall provide where necessary for staggered terms of office.

Vacating office

**28.**—(1) Where an appointed or elected member of the Senate resigns, becomes incapable of acting as a member or ceases to be eligible for appointment or election, the Senate shall by resolution declare such membership vacant, save that a student member who graduates during his term of office may complete such term.

Idem

(2) Where within any membership year a member of the Senate, other than an *ex officio* member, not having been granted leave of absence by the Senate attends less than 50 per cent of the regular meetings of the Senate, the Senate may by resolution declare such membership vacant.

Idem

(3) Where within any membership year a member of the Senate, other than an *ex officio* member, not having been granted leave of absence by the Senate attends less than 25 per cent of the regular meetings of the Senate, the Senate shall by resolution declare such membership vacant.

(4) A resolution passed under this section entered into the minutes of the Senate shall be conclusive evidence of the vacancy declared therein. Resolution final

**29.** Where a vacancy on the Senate occurs before the term of office for which a person has been appointed or elected has expired, Filling vacancies

- (a) if the vacancy is that of an appointed member, the vacancy may be filled by the same authority which appointed the person whose membership is vacant; and
- (b) if the vacancy is that of an elected member, the Senate in its sole discretion shall determine if the vacancy is to be filled and, if so, the manner and procedure for doing so,

and a person appointed or elected hereunder shall hold office for the remainder of the term of office of the person whose membership is vacant.

**30.**—(1) The Senate shall meet at least four times an academic year and at such other times as the Senate from time to time may prescribe. Meetings of the Senate

(2) A special meeting of the Senate shall be called on the written notice of any seven members thereof and shall be convened within fifteen days thereafter, to consider the matter or matters set out in the notice. Special meetings

**31.** The Senate is responsible for the academic policy of the University and, without limiting the generality of the foregoing, the Senate shall, Duties of Senate

- (a) create faculty councils or committees and committees generally to exercise any of its powers and shall approve their form and method of operation;
- (b) determine all courses of study, including standards for admission into the University and qualifications for degrees;
- (c) conduct examinations, appoint examiners, and decide finally all matters relating thereto;
- (d) deal with matters arising in connection with the award of fellowships, scholarships, medals, prizes and other awards;

- (e) provide for the convening and conduct of convocations;
- (f) confer honorary degrees in divinity without fee upon the recommendation of any affiliated college having a faculty of theology;
- (g) establish and recommend to the Board policies and procedures to be followed in the selection, appointment, promotion and termination of appointment of the members of the Faculty, and the conditions under which tenure and sabbatical leave are granted;
- (h) in collaboration with the Board create a committee to make recommendations respecting the appointment of the President and Vice-Chancellor as provided in clause *a* of section 21 and shall be consulted before the termination of any appointment so made; and
- (i) make recommendations and give advice to the Board on the matters mentioned in clause *b* of section 21 and in section 22.

Idem

**32. The Senate may,**

- (a) confer degrees and award diplomas and certificates in any branch of learning, taught in the University or in any affiliated college, including theology;
- (b) confer honorary degrees in any branch of learning;
- (c) provide by-laws and regulations for the conduct of its proceedings including the determination of a quorum necessary for the transaction of business;
- (d) establish such committees as the Senate considers necessary, including an executive committee that may act in the name and on behalf of the Senate between regular meetings of the Senate;
- (e) inquire into and publish reports upon any matter that affects the academic reputation or effectiveness of the University; and
- (f) pass resolutions and make recommendations to the Board with respect to any matter connected with the administration of the University and the promotion of its affairs, but this clause shall not be construed to subtract from the powers and duties conferred on the Board elsewhere in this Act.



## THE ASSEMBLY OF THE UNIVERSITY

**333.** (1) There shall be an advisory body called "The Assembly of the University" composed as follows, Assembly  
of the  
University

- (a) the Chancellor;
- (b) the Vice-Chancellor, who shall be the chairman of the Assembly;
- (c) the chairman of the Board and four members of the Board appointed by it;
- (d) five members of the Senate appointed by it;
- (e) the Vice-Presidents, the Registrar, and the Secretary of the Senate who shall be the Secretary of the Assembly;
- (f) the Deans of all academic units of the University;
- (g) the academic head of each affiliated college and two other persons appointed by it;
- (h) ten members appointed by the University Students' Council, two members appointed by the Society of Graduate Students and one member appointed by the Masters of Business Administration Association;
- (i) the President and the other members of the executive of the Alumni Association of the University;
- (j) five persons appointed by the council of the City of London, two persons appointed by the Board of Education of the City of London, and one person appointed by the Separate School Board of the City of London;
- (k) the Warden, or one member of the county council appointed by it, of each of the counties named in section 6, and the chairman, or one member of the council appointed by it, of each of the councils of The Regional Municipality of Haldimand-Norfolk and The Regional Municipality of Waterloo;
- (l) one member of the municipal council of each city, other than the City of London, in the counties and regional municipalities named in section 6 appointed by it;

- (m) ten members of the Ontario Secondary Schools Headmasters' Council (South Western Region) appointed by it;
- (n) one member from each of the colleges of applied arts and technology in the counties and regional municipalities named in section 6 appointed by each college;
- (o) the members of Parliament representing the electoral districts of London East, London West, and Middlesex;
- (p) the members of the Legislative Assembly representing the electoral districts of London North, London South, Middlesex North, Middlesex South, and the electoral districts abutting those districts;
- (q) ten members at large appointed by the Board and ten members at large appointed by the Senate; and
- (r) such other persons as the Board and the Senate may by joint action appoint.

Term of  
office

(2) Each member, other than *ex officio* members, shall hold office for such term as the Assembly may from time to time determine.

Meetings of  
Board and  
Senate open  
to public

(3) The President shall convene the Assembly at least once in each academic year to receive and discuss reports from the Vice-Chancellor and from the chairman of the Board concerning the state and aims of the University, to discuss any matter affecting the University and at the request of the Board or of the Senate to advise thereon, and to provide by its meetings a forum whereby liaison between the University and the public may be established and promoted in the furtherance of the University's academic aims and purposes.

#### MEETINGS AND BY-LAWS

Meetings of  
Board and  
Senate open  
to public

**34.**—(1) Subject to subsection 2, the meetings of the Board and of the Senate shall be open to the public and prior notice of such meetings shall be given to the members and to the public in such manner as the Board and the Senate by by-law shall respectively determine, and no person shall be excluded therefrom except for improper conduct but, where confidential matters of the University are being considered, that part of the meeting may be held *in camera*.

(2) Where matters of a personal nature concerning an individual may be disclosed at a meeting, the part of the meeting concerning such individual shall be held *in camera* unless such individual requests that such part of the meeting be open to the public. <sup>Exception</sup>

(3) The by-laws of the Board and of the Senate shall be open to examination by members of the University community and by the public during normal business hours. <sup>Examination of by-laws</sup>

(4) The Board and the Senate shall publish their by-laws from time to time in such manner as they may respectively consider proper. <sup>Publication of by-laws</sup>

#### CHANCELLOR

**35.--**(1) There shall be a Chancellor of the University who shall be elected by an electoral board consisting of, <sup>Chancellor, election of</sup>

(a) six members, except *ex officio* members, of the Board, including the chairman of the Board; and

(b) six members of the Senate, including the Vice-Chancellor.

(2) Eight members of the electoral board, including the chairman of the Board and the Vice-Chancellor, constitute a quorum. <sup>Quorum</sup>

(3) No person shall occupy the office of Chancellor who is a member of the academic or administrative staff of the University or an employee of any affiliated college, or who at the time of his election is a member of the Board or of the governing body of any affiliated college. <sup>Who ineligible</sup>

**36.** The term of office of the Chancellor shall be for four years commencing with the 1st day of July of the year in which he is elected and continuing until his successor is elected, but in any event not longer than six months after the expiration of his term of office, and no Chancellor shall be eligible for re-election. <sup>Term of office</sup>

**37.** Where a vacancy in the office of Chancellor occurs, the vacancy shall be filled by the election of a successor in the manner set out in section 35, and such successor shall hold office for four years terminating on the 30th day of June in the fourth year after his election, and no successor shall be eligible for re-election. <sup>Vacancy in office</sup>



Where  
Chancellor  
becomes  
ineligible

**38.** Where the Chancellor ceases to be eligible for such office, or becomes incapable of acting, or the office becomes otherwise vacant, a declaration of the existence of a vacancy in the office of Chancellor by the Senate and the Board entered in the minutes of the Senate and of the Board is conclusive evidence of the vacancy.

Duties

**39.** The Chancellor shall preside at all convocations and by virtue of the authority vested in him by the Senate shall admit to degrees, diplomas and certificates such candidates, including the recipients of honorary degrees, as may be requested by the Senate.

#### VICE-CHANCELLOR

Vice-  
Chancellor

**40.—(1)** There shall be a Vice-Chancellor of the University who shall be the President of the University.

Duties

(2) The Vice-Chancellor and President shall be the chief executive officer of the University and shall call a meeting of and report to the Faculty not less than once in each academic year.

Vice-  
Chancellor  
to act in  
absence of  
Chancellor

(3) In the absence of the Chancellor or there being a vacancy in the office, the Vice-Chancellor or a member of the Faculty appointed by him shall act as Chancellor at Convocation.

Idem

(4) In the absence of both Chancellor and Vice-Chancellor or if both offices are vacant, the Chancellor's duties shall be performed by a member of the Faculty appointed by the Senate for the purpose.

#### OFFICIAL VISITOR

Official  
Visitor

**41.** The Lieutenant Governor of the Province of Ontario is the Official Visitor of the University.

#### GENERAL

Review

**42.** The Board and the Senate shall review this Act within ten years from the date of its enactment.

Former  
members  
continue  
until new  
Board and  
Senate  
constituted

**43.** The members of the Board and the Senate holding office immediately before this Act comes into force shall continue to hold office and constitute the Board and the Senate under this Act until the members of the Board and Senate are elected or appointed in accordance with this Act.

**44.** *The University of Western Ontario Act, 1967*, being <sup>Repeal</sup> chapter 134, is repealed.

**45.** This Act comes into force on the day it receives <sup>Commence-</sup>  
Royal Assent. <sup>ment</sup>

**46.** This Act may be cited as *The University of Western* <sup>Short title</sup>  
*Ontario Act, 1974*.

*1st Reading*

April 4th, 1974

*2nd Reading*

*3rd Reading*

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MR. WALKER

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*(Reprinted as amended by the  
Private Bills Committee)*



# **BILL Pr21**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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## **An Act respecting The University of Western Ontario**

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MR. WALKER

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BILL Pr21

1974

## An Act respecting The University of Western Ontario

**W**HEREAS The University of Western Ontario hereby Preamble  
applies for special legislation varying the provisions of  
its Act of incorporation in relation to its organization,  
government and administration; and whereas it is expedient  
to grant the application;

Therefore, Her Majesty, by and with the advice and  
consent of the Legislative Assembly of the Province of  
Ontario, enacts as follows:

1.—(1) In this Act, except as otherwise provided herein, Interpre-  
tation

- (a) "academic staff" means those persons employed by the University whose duties are primarily those of performing and administering the teaching and research functions and who are included in the instructor, lecturer and professorial ranks;
- (b) "academic unit" means a faculty, school, college or other academic division however designated by the University which offers programs leading to a degree;
- (c) "academic year" means the academic year as determined by the University;
- (d) "administrative staff" means those employees of the University who are not members of the academic staff;
- (e) "Board" means The Board of Governors, The University of Western Ontario;
- (f) "Faculty" means the full-time members of the academic staff of the University including the Vice-Chancellor and academic Deans and such of the part-time members of the academic staff of

the University as the Senate may from time to time determine;

- (g) "membership year" means any twelve-month period or periods established from time to time by the Board and by the Senate, respectively;
- (h) "property" means all property, both real and personal;
- (i) "real property" means messuages, lands, tenements and hereditaments, whether corporeal or incorporeal, and any undivided share thereof and any estate or interest therein;
- (j) "Senate" means the Senate of The University of Western Ontario;
- (k) "student" means any person who is registered as a full-time or part-time student in an academic unit of the University, but does not include a student of an affiliated college;
- (l) "University" means The University of Western Ontario, but does not include any college affiliated with the University.

Conflict with  
R.S.O. 1970,  
c. 89

(2) In the event of conflict between any provision of this Act and any provision of *The Corporations Act*, the provision of this Act prevails.

University  
continued

**2.** The University, commonly known as "Western", the Board and Senate and the statutes and regulations of, appointments in and affiliation of colleges with, the University, existing at the time this Act comes into force, are and each of them is hereby continued, subject to this Act.

Religious  
tests not  
required

**3.** The government, management and control of the University shall continue to be undenominational and no religious test shall be required of any officer, member of the academic or the administrative staffs, employee or student of the University, nor shall any religious observances be imposed.

Proceedings  
by or against  
University

**4.** All proceedings by or against the University may be had and taken in the name of "The University of Western Ontario".

#### GRANTS

Grants by  
City of  
London

**5.** The City of London may grant annually or from time to time to the University such sum as the City and the

University may agree upon, without obtaining the assent of the electors qualified to vote on money by-laws for such grant, except that any grant exceeding in any one year \$1 per capita of population as determined by the last yearly census as returned to the clerk by the assessment commissioner shall first receive the assent of the electors.

**6.** Grants to the Board for the use of the University may be made without obtaining the assent of the electors qualified to vote on money by-laws for such grant by, Grants by counties, etc.

- (a) the county council of any of the counties of Brant, Bruce, Elgin, Essex, Grey, Huron, Kent, Lambton, Middlesex, Oxford, Perth and Wellington;
- (b) the council of The Regional Municipality of Haldimand-Norfolk and the council of The Regional Municipality of Waterloo;
- (c) the council of any regional municipality hereafter established within the area described in clause a; and
- (d) the council of any municipality, other than the City of London, in such counties or regional municipalities,

but any such grant in excess of \$20,000 in any one year shall first receive the assent of the electors.

#### PROPERTY

**7.** All property heretofore or hereafter granted, conveyed, devised or bequeathed by any person, firm or corporation in trust for or for the benefit of the University or of any academic unit or department thereof or otherwise in connection therewith, subject to the trust affecting the same, vests in the Board. Property in trust vested in Board

**8.—(1)** All real property vested in the Board shall, as far as the application of any statute of limitations is concerned, including any statute limiting or defining the period for the investigation of titles, be deemed to have been and to be real property vested in the Crown for the public use of the Province of Ontario. Application of statute of limitations to property

(2) The University has, in addition to the powers, rights and privileges mentioned in section 26 of *The Interpretation Act*, power to purchase or otherwise acquire, take or receive, by gift, bequest or devise, and to hold and enjoy without Power to deal with realty and personality R.S.O. 1970, c. 225



licence in mortmain and without limitation as to the period of holding any estate or property whatsoever, whether real or personal, and to sell, grant, convey, mortgage, lease or otherwise dispose of the same or any part thereof from time to time and as occasion may require, and to acquire other estate or property in addition thereto or in place thereof.

Land vested  
in Board not  
liable to  
expropria-  
tion

**9.** Real property vested in the Board shall not be liable to be entered upon, used or taken by any corporation except a municipal corporation or by any person possessing the right of taking land compulsorily for any purpose and no power to expropriate real property hereafter conferred shall extend to such real property unless the Act conferring the power applies thereto in express terms.

#### THE BOARD OF GOVERNORS

Board  
continued

**10.** The Board of Governors of the University is hereby continued as a body corporate by the name and style of "The Board of Governors, The University of Western Ontario".

Composition  
of Board

**11.—(1)** The Board shall consist of,

- (a) The President of the University, the Mayor of the City of London (or an alternate appointed under the provisions of *The Municipal Act*), the Warden of the County of Middlesex (or an alternate appointed under the provisions of *The Municipal Act*), and the Chancellor of the University, who shall be *ex officio* members;
- (b) four persons appointed by the council of the City of London;
- (c) four persons appointed by the Lieutenant Governor in Council;
- (d) two persons appointed or elected by the Alumni Association of the University;
- (e) four members of the Faculty of whom,
  - (i) two shall be members of the Senate at the time of election and be elected by the Senate, and
  - (ii) two shall be elected by the Faculty from among those members of Faculty of the rank of assistant professor or higher who have held academic appointments at the University for at least four academic years;

R.S.O. 1970,  
c. 284



(f) three students of whom,

(i) two shall be undergraduate students at the time of election and be elected by the undergraduate students, and

(ii) one graduate student elected by the graduate students,

provided that an undergraduate student shall not be eligible for election unless registered at the University in an academic year prior to the academic year in which such election occurs;

(g) two members of the full-time administrative staff elected thereby;

(h) four persons elected by the members appointed or elected under clauses *b*, *c*, *d*, *e*, *f*, and *g*; and

(i) such Vice-Presidents as are appointed to the Board by the members appointed or elected under clauses *b*, *c*, *d*, *e*, *f*, *g*, and *h*, which appointments may be terminated at any time.

(2) Subject to section 18, the failure to appoint or elect a member as provided in subsection 1 does not invalidate the composition of the Board, and, where a default continues for three months after an appointment or election should have been made, the remaining members of the Board may, but shall not be obliged to, elect a member eligible to fill the vacancy. <sup>Failure to elect or appoint</sup>

(3) The members to be elected under subsection 1 shall be elected in accordance with such procedures as shall be determined and established by the Board, but in the election of members under clause *e*, *f* or *g* of that subsection, the election shall be by secret ballot. <sup>Election procedures</sup>

**12.**—(1) Except as provided in this section, each member of the Board shall hold office for four membership years, shall be eligible for reappointment or re-election, as the case may be, and if otherwise eligible shall hold office until a successor is appointed or elected. <sup>Term of office</sup>

(2) Subject to subsection 4, a student elected to the Board under clause *f* of subsection 1 of section 11 shall hold office for a term of two membership years. <sup>Idem</sup>

Idem

(3) No member shall hold office for more than two consecutive terms, excluding therefrom the balance of an unexpired term for a person appointed or elected thereto under section 15, or a term reduced under subsection 4, but any such member shall again be eligible for reappointment or re-election after a lapse of two years after the expiration of the second of two consecutive terms.

Staggered  
terms of  
office

(4) Prior to the first appointments or elections of members after this Act comes into force, the Board shall provide where necessary for staggered terms of office.

Saving

(5) This section shall not apply to an *ex officio* member of the Board or to a member appointed under clause *i* of subsection 1 of section 11.

Eligibility

**13.**—(1) Except as provided in clauses *a*, *e*, *f*, *g* and *i* of subsection 1 of section 11, no person who is a member of the academic staff or administrative staff, or a student of the University or an affiliated college, or who is a member of the governing body, faculty, staff or student body of any other degree-granting institution, is eligible for appointment or election as a member of the Board.

Canadian  
citizenship

(2) Subject to subsection 3, no person is eligible as a member of the Board unless he is a Canadian citizen.

Saving

(3) Subsection 2 does not apply to a person who was a member of the Board on the day before this Act comes into force.

Membership  
vacated

**14.**—(1) Where a member of the Board ceases to be eligible for appointment or election to the Board, resigns or becomes incapable of acting as a member, the Board by resolution shall declare such membership vacant.

Meetings

(2) Where within any membership year a member of the Board, other than an *ex officio* member, not having been granted leave of absence by the Board, attends less than 50 per cent of the regular meetings of the Board, the Board by resolution may declare such membership vacant.

Idem

(3) Where within any membership year a member of the Board, other than an *ex officio* member, not having been granted leave of absence by the Board, attends less than 25 per cent of the regular meetings of the Board, the Board by resolution shall declare such membership vacant.

Proof

(4) A resolution declaring a vacancy, entered in the minutes of the Board, is conclusive evidence of the vacancy.

**15.** Where a vacancy on the Board occurs before the term of office for which a person has been appointed or elected has expired, <sup>Filling vacancies</sup>

- (a) if the vacancy is that of an appointed member, the vacancy may be filled by the same authority which appointed the person whose membership is vacant; and
- (b) if the vacancy is that of an elected member, the Board in its sole discretion shall determine if the vacancy is to be filled and, if so, the manner and procedure for doing so,

and a person appointed or elected hereunder shall hold office for the remainder of the term of office of the person whose membership is vacant.

**16.—(1)** The Board shall elect a chairman and a vice-chairman from among the members appointed or elected under clauses *b*, *c*, *d*, and *h* of subsection 1 of section 11, and in the case of the absence or illness of the chairman or of there being a vacancy in that office, the vice-chairman shall act as and have all the powers of the chairman. <sup>Chairman and vice-chairman</sup>

(2) In the case of absence or illness of the chairman and vice-chairman or of there being vacancies in these offices, the Board may appoint one of its members appointed or elected under clauses *b*, *c*, *d* and *h* of subsection 1 of section 11 to act as chairman for the time being and the member so appointed shall act as and have all the powers of the chairman. <sup>Absence</sup>

(3) The term of office of the chairman and vice-chairman shall be as determined by the Board. <sup>Term of office</sup>

**17.** The quorum of the Board, to be designated by by-law of the Board, shall consist of not fewer than ten members, at least one-half of whom shall consist of members of the Board appointed or elected, as the case may be, under clauses *b*, *c*, *d* and *h* of subsection 1 of section 11. <sup>Quorum</sup>

**18.** The Board may exercise any of its powers as long as there are at least sixteen members in office, not including *ex officio* members and members appointed under clause *i* of subsection 1 of section 11. <sup>Exercise of powers</sup>

**19.** A member of the Board or of a committee created by it who is in any way interested in a proposed contract with the University shall declare his interest at any meeting at which the proposed contract is considered, shall with- <sup>Interest in work of the Board</sup>



draw from the meeting during any discussion of such contract and shall not vote thereon.

Management  
of the  
University

**20.** Except in such matters as are assigned by this Act to the Senate or other body, the government, conduct, management and control of the University and of its property and affairs are vested in the Board, and the Board may do such things as it considers to be for the good of the University and consistent with the public interest.

Powers of  
the Board

**21.** Without limiting the generality of section 20, the Board may,

- (a) appoint the President and Vice-Chancellor, but before so acting, the Board shall request a recommendation from a committee, to be convened by the chairman of the Board, composed of five members of the Board named by it, and five persons named by the Senate, which committee shall appoint its own chairman and determine its own procedure, and any recommendation of the committee shall be made in writing signed by at least eight members and delivered to the Board within nine months of the date on which the Board names five members to the committee or the date on which the Board requests the Senate to name five persons to the committee, whichever date is later, and, failing a recommendation within that period, the Board may appoint the President;
- (b) on the recommendation of the President, appoint as many Vice-Presidents as the Board and the Senate may consider necessary, the heads of all academic units within the University, the Chief Librarian, the Registrar, the Secretary of the Senate, the professors and all other members of the academic staff of the University, but all such appointments made by the Board shall be in accordance with the policies and procedures established by the Senate;
- (c) appoint all other employees the Board may consider necessary;
- (d) fix and provide for the remuneration, tenure of office or employment, retirement and superannuation, or other conditions of employment of the persons mentioned in clauses *a*, *b* and *c*, which employment, in the absence of contract or policy of tenure, shall be at the pleasure of the Board, and determine their functions, duties and powers, but the policies and procedures followed in respect

of persons appointed under clause *b* shall be adopted and promulgated after consultation with the Senate, and such other bodies within the University as may be appropriate;

- (*c*) expend such sums as may be required to establish funds for the payment of gratuities, retirement allowances, pensions, life insurance or other insurance, including health insurance, for the benefit of the persons mentioned in clauses *a*, *b* and *c*;
- (*f*) establish procedures pertaining to the meetings of the Board and its transactions, create committees to exercise any of its powers and delegate authority to individuals or committees created by it;
- (*g*) appoint by resolution or by-law a member or members of the Board or any other person or persons to execute on behalf of the Board either documents and other instruments in writing generally or specific documents and other instruments in writing and to affix the corporate seal of the Board thereto;
- (*h*) fix the fees to be paid for instruction under the control of the University, for all ancillary activities and for examinations, degrees, diplomas and certificates;
- (*i*) provide such means for health services and health examination for students as the Board may see fit;
- (*j*) expend such sums as the Board considers necessary for the support and maintenance of the University and for the betterment of existing buildings and for the furnishing and equipment of existing and newly erected buildings and, having first requested the advice of the Senate, for the erection of such new buildings as the Board considers necessary for the use or purposes of the University;
- (*k*) subject to the limitations imposed by any trust, invest all such money as shall come to the University in such manner as the Board may see fit;
- (*l*) borrow from time to time such sums of money as may be required for the use of the University, and give such security against the assets of the University by way of mortgage or otherwise as the Board may determine;

- (m) apply for, purchase and otherwise deal with inventions, trademarks, trade names, copyright or similar rights or interests therein in any manner that the Board considers necessary;
- (n) pass resolutions and make recommendations to the Senate with respect to any matter connected with the administration of the University and the promotion of its affairs, but this power shall not be interpreted as subtracting from the powers and duties conferred on the Senate by this Act.

Idem

**22.** On the recommendation of the Senate, the Board may,

- (a) establish or terminate academic units, departments, chairs and programs of instruction in the University or elsewhere, but the Senate shall determine the curricula of all programs of instruction;
- (b) enter into agreements for the founding or establishment of chairs, scholarships, fellowships, prizes, bursaries and other awards;
- (c) provide for the affiliation with the University of any college in Ontario offering courses leading to a degree and established for teaching any branch of learning on such terms as the Board may determine, and enter into any agreement that the Board may consider necessary to effectuate affiliation, and in order to preserve the undenominational nature of the University no more than two colleges of the same denominational control shall be affiliated with the University at the same time, and no college affiliated with the University shall be affiliated with or have affiliated with it any other college, school or institution of higher learning without specific permission in writing by the Board;
- (d) provide for the dissolution, modification or alteration of the terms of any affiliation; and
- (e) provide for the government and control of residences operated and maintained by the University.

Authenticat-  
tion of  
by-laws, etc.

**23.** Except as otherwise provided in this Act, the Board may act by resolution or by-law authenticated in a manner prescribed by the Board.

Audit of  
accounts  
R.S.O. 1970,  
c. 373

**24.—**(1) The Board shall appoint one or more auditors licensed under *The Public Accountancy Act* to audit the accounts and transactions of the Board at least once a year.



(2) The Board shall make a financial report annually <sup>Annual report</sup> to the Minister of Colleges and Universities in such form and containing such information as the Minister may require.

(3) The Minister shall submit the report to the Lieutenant <sup>Tabling</sup> Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

(4) The Board shall make available to the academic staff, <sup>Idem</sup> administrative staff and students, an annual report including an annual financial report in such form and manner as the Board may determine.

**25.** Where any question arises as to the powers or duties <sup>Questions as to powers</sup> of the President and Vice-Chancellor, a Vice-President, a member of the Faculty or any senior administrative officer of the University, the Board after consultation with the Senate shall settle and determine the matter in accordance with this Act, and the decision of the Board shall be final.

#### SENATE

**26.**—(1) There shall be a Senate of the University <sup>Senate, how composed</sup> composed of,

(a) the following *ex officio* members,

- (i) the Chancellor,
- (ii) the Vice-Chancellor,
- (iii) such Vice-Presidents as the Senate may determine,
- (iv) the Deans of the academic units given Faculty representation under clause *b*,
- (v) the Director of Summer School and Extension,
- (vi) the Chief Librarian,
- (vii) the Registrar, and
- (viii) the Secretary of Senate,

of whom the Chancellor, the Director of Summer School and Extension, the Chief Librarian, the Registrar and the Secretary of the Senate shall be non-voting members;

- (b) members of the Faculty, elected in the following numbers,
- (i) Faculty of Graduate Studies —four members,
  - (ii) Faculty of Arts —four members,
  - (iii) Faculty of Medicine —four members,
  - (iv) Faculty of Science —four members,
  - (v) Faculty of Social Science —four members,
  - (vi) Faculty of Dentistry —one member,
  - (vii) Faculty of Education —one member,
  - (viii) Faculty of Engineering  
Science —one member,
  - (ix) Faculty of Law —one member,
  - (x) Faculty of Music —one member,
  - (xi) Faculty of Nursing —one member,
  - (xii) Faculty of Physical  
Education —one member,
  - (xiii) School of Business  
Administration —one member,
  - (xiv) School of Library and  
Information Science —one member,
  - (xv) Subject to approval by  
two-thirds of the members  
of Senate, any other  
academic unit that may be  
established hereafter —one member;
- (c) two members of the Board appointed by the Board from among its members appointed or elected under clauses *b*, *c*, *d* and *h* of subsection 1 of section 11;
- (d) two members from each affiliated college, one of whom shall be the academic head of that college and the other a person elected as provided in section 27, who shall have voice in all matters but shall not vote on resolutions, recommendations or requests submitted to the Board where such

matters do not directly involve the affiliated colleges as shall be determined by the Senate;

(e) fifteen students of whom,

(i) twelve shall be undergraduate students of the University and its affiliated colleges and be elected by such undergraduate students, and

(ii) three shall be graduate students elected by the graduate students; and

(f) five persons from the general community, one of whom shall be active in or associated with the field of secondary school education, consisting of,

(i) the President of the Alumni Association of the University or a person designated by such President, and two members of the Association appointed by the Association, and

(ii) two persons appointed by the Senate.

(2) Upon an application by the Senate approved by at least two-thirds of the members of Senate, the Lieutenant Governor in Council may make regulations varying the number of members set out in clauses *b*, *d* and *e* of subsection 1. Regulation to vary number of members

(3) The Vice-Chancellor shall be the chairman of the Senate, and a vice-chairman shall be elected from among its members in such manner as the Senate may establish. Officers

(4) Where the Senate grants leave of absence to any member, the Senate may provide, in such manner as it determines, for an alternate member who shall have all the powers of a member of the Senate. Alternates

**27.**—(1) The election of a member of Senate under clause *b* or *d* of subsection 1 of section 26 shall be by secret ballot of the members of the academic unit or affiliated college to be represented who hold the rank of assistant professor or higher, but in all other respects such an election shall be in accordance with the manner and procedures established and determined by the Senate. Election of members

(2) No person is eligible for election to the Senate under clause *b* or *d* of subsection 1 of section 26 unless he is a member of the academic unit or affiliated college to be Idem



represented, holds the rank of assistant professor or higher and has held an academic appointment in the University or affiliated college for at least two academic years.

Idem

(3) The election of a member of Senate under clause *e* of subsection 1 of section 26 shall be by secret ballot and for a term of one membership year, but in all other respects such an election shall be in accordance with the manner and procedures established and determined by the Senate.

Disputes

(4) The Senate shall rule on any dispute which may arise as to eligibility to vote or to hold office under subsections 1, 2 and 3 and its decision shall be final.

Term of  
office

(5) A member of the Senate, other than an *ex officio* member or a member elected under clause *e* of subsection 1 of section 26, shall hold office for a term of two membership years and is not eligible to be appointed or elected for more than two consecutive terms, excluding therefrom the balance of an unexpired term for a person appointed or elected under section 29 or a term reduced under subsection 6, but is eligible for reappointment or re-election after a lapse of two years after the expiration of the second of two consecutive terms.

Idem

(6) Prior to the first appointments or elections of members after this Act comes into force, the Senate shall provide where necessary for staggered terms of office.

Vacating  
office

**28.**—(1) Where an appointed or elected member of the Senate resigns, becomes incapable of acting as a member or ceases to be eligible for appointment or election, the Senate shall by resolution declare such membership vacant, save that a student member who graduates during his term of office may complete such term.

Idem

(2) Where within any membership year a member of the Senate, other than an *ex officio* member, not having been granted leave of absence by the Senate attends less than 50 per cent of the regular meetings of the Senate, the Senate may by resolution declare such membership vacant.

Idem

(3) Where within any membership year a member of the Senate, other than an *ex officio* member, not having been granted leave of absence by the Senate attends less than 25 per cent of the regular meetings of the Senate, the Senate shall by resolution declare such membership vacant.

(4) A resolution passed under this section entered into the minutes of the Senate shall be conclusive evidence of the vacancy declared therein. <sup>Resolution final</sup>

**29.** Where a vacancy on the Senate occurs before the term of office for which a person has been appointed or elected has expired, <sup>Filling vacancies</sup>

- (a) if the vacancy is that of an appointed member, the vacancy may be filled by the same authority which appointed the person whose membership is vacant; and
- (b) if the vacancy is that of an elected member, the Senate in its sole discretion shall determine if the vacancy is to be filled and, if so, the manner and procedure for doing so,

and a person appointed or elected hereunder shall hold office for the remainder of the term of office of the person whose membership is vacant.

**30.**—(1) The Senate shall meet at least four times an academic year and at such other times as the Senate from time to time may prescribe. <sup>Meetings of the Senate</sup>

(2) A special meeting of the Senate shall be called on the written notice of any seven members thereof and shall be convened within fifteen days thereafter, to consider the matter or matters set out in the notice. <sup>Special meetings</sup>

**31.** The Senate is responsible for the academic policy of the University and, without limiting the generality of the foregoing, the Senate shall, <sup>Duties of Senate</sup>

- (a) create faculty councils or committees and committees generally to exercise any of its powers and shall approve their form and method of operation;
- (b) determine all courses of study, including standards for admission into the University and qualifications for degrees;
- (c) conduct examinations, appoint examiners, and decide finally all matters relating thereto;
- (d) deal with matters arising in connection with the award of fellowships, scholarships, medals, prizes and other awards;

- (e) provide for the convening and conduct of convocations;
- (f) confer honorary degrees in divinity without fee upon the recommendation of any affiliated college having a faculty of theology;
- (g) establish and recommend to the Board policies and procedures to be followed in the selection, appointment, promotion and termination of appointment of the members of the Faculty, and the conditions under which tenure and sabbatical leave are granted;
- (h) in collaboration with the Board create a committee to make recommendations respecting the appointment of the President and Vice-Chancellor as provided in clause *a* of section 21 and shall be consulted before the termination of any appointment so made; and
- (i) make recommendations and give advice to the Board on the matters mentioned in clause *b* of section 21 and in section 22.

Idem

**32.** The Senate may,

- (a) confer degrees and award diplomas and certificates in any branch of learning, taught in the University or in any affiliated college, including theology;
- (b) confer honorary degrees in any branch of learning;
- (c) provide by-laws and regulations for the conduct of its proceedings including the determination of a quorum necessary for the transaction of business;
- (d) establish such committees as the Senate considers necessary, including an executive committee that may act in the name and on behalf of the Senate between regular meetings of the Senate;
- (e) inquire into and publish reports upon any matter that affects the academic reputation or effectiveness of the University; and
- (f) pass resolutions and make recommendations to the Board with respect to any matter connected with the administration of the University and the promotion of its affairs, but this clause shall not be construed to subtract from the powers and duties conferred on the Board elsewhere in this Act.



## THE ASSEMBLY OF THE UNIVERSITY

**333.**—(1) There shall be an advisory body called "The Assembly of the University Assembly of the University" composed as follows,

- (a) the Chancellor;
- (b) the Vice-Chancellor, who shall be the chairman of the Assembly;
- (c) the chairman of the Board and four members of the Board appointed by it;
- (d) five members of the Senate appointed by it;
- (e) the Vice-Presidents, the Registrar, and the Secretary of the Senate who shall be the Secretary of the Assembly;
- (f) the Deans of all academic units of the University;
- (g) the academic head of each affiliated college and two other persons appointed by it;
- (h) ten members appointed by the University Students' Council, two members appointed by the Society of Graduate Students and one member appointed by the Masters of Business Administration Association;
- (i) the President and the other members of the executive of the Alumni Association of the University;
- (j) five persons appointed by the council of the City of London, two persons appointed by the Board of Education of the City of London, and one person appointed by the Separate School Board of the City of London;
- (k) the Warden, or one member of the county council appointed by it, of each of the counties named in section 6, and the chairman, or one member of the council appointed by it, of each of the councils of The Regional Municipality of Haldimand-Norfolk and The Regional Municipality of Waterloo;
- (l) one member of the municipal council of each city, other than the City of London, in the counties and regional municipalities named in section 6 appointed by it;

- (m) ten members of the Ontario Secondary Schools Headmasters' Council (South Western Region) appointed by it;
- (n) one member from each of the colleges of applied arts and technology in the counties and regional municipalities named in section 6 appointed by each college;
- (o) the members of Parliament representing the electoral districts of London East, London West, and Middlesex;
- (p) the members of the Legislative Assembly representing the electoral districts of London North, London South, Middlesex North, Middlesex South, and the electoral districts abutting those districts;
- (q) ten members at large appointed by the Board and ten members at large appointed by the Senate; and
- (r) such other persons as the Board and the Senate may by joint action appoint.

Term of  
office

(2) Each member, other than *ex officio* members, shall hold office for such term as the Assembly may from time to time determine.

Meetings of  
Assembly

(3) The President shall convene the Assembly at least once in each academic year to receive and discuss reports from the Vice-Chancellor and from the chairman of the Board concerning the state and aims of the University, to discuss any matter affecting the University and at the request of the Board or of the Senate to advise thereon, and to provide by its meetings a forum whereby liaison between the University and the public may be established and promoted in the furtherance of the University's academic aims and purposes.

#### MEETINGS AND BY-LAWS

Meetings of  
Board and  
Senate open  
to public

**34.**—(1) Subject to subsection 2, the meetings of the Board and of the Senate shall be open to the public and prior notice of such meetings shall be given to the members and to the public in such manner as the Board and the Senate by by-law shall respectively determine, and no person shall be excluded therefrom except for improper conduct but, where confidential matters of the University are being considered, that part of the meeting may be held *in camera*.

(2) Where matters of a personal nature concerning an individual may be disclosed at a meeting, the part of the meeting concerning such individual shall be held *in camera* unless such individual requests that such part of the meeting be open to the public. <sup>Exception</sup>

(3) The by-laws of the Board and of the Senate shall be open to examination by members of the University community and by the public during normal business hours. <sup>Examination of by-laws</sup>

(4) The Board and the Senate shall publish their by-laws from time to time in such manner as they may respectively consider proper. <sup>Publication of by-laws</sup>

#### CHANCELLOR

**35.**—(1) There shall be a Chancellor of the University who shall be elected by an electoral board consisting of, <sup>Chancellor, election of</sup>

(a) six members, except *ex officio* members, of the Board, including the chairman of the Board; and

(b) six members of the Senate, including the Vice-Chancellor.

(2) Eight members of the electoral board, including the chairman of the Board and the Vice-Chancellor, constitute a quorum. <sup>Quorum</sup>

(3) No person shall occupy the office of Chancellor who is a member of the academic or administrative staff of the University or an employee of any affiliated college, or who at the time of his election is a member of the Board or of the governing body of any affiliated college. <sup>Who ineligible</sup>

**36.** The term of office of the Chancellor shall be for four years commencing with the 1st day of July of the year in which he is elected and continuing until his successor is elected, but in any event not longer than six months after the expiration of his term of office, and no Chancellor shall be eligible for re-election. <sup>Term of office</sup>

**37.** Where a vacancy in the office of Chancellor occurs, the vacancy shall be filled by the election of a successor in the manner set out in section 35, and such successor shall hold office for four years terminating on the 30th day of June in the fourth year after his election, and no successor shall be eligible for re-election. <sup>Vacancy in office</sup>



Where  
Chancellor  
becomes  
ineligible

**38.** Where the Chancellor ceases to be eligible for such office, or becomes incapable of acting, or the office becomes otherwise vacant, a declaration of the existence of a vacancy in the office of Chancellor by the Senate and the Board entered in the minutes of the Senate and of the Board is conclusive evidence of the vacancy.

Duties

**39.** The Chancellor shall preside at all convocations and by virtue of the authority vested in him by the Senate shall admit to degrees, diplomas and certificates such candidates, including the recipients of honorary degrees, as may be requested by the Senate.

#### VICE-CHANCELLOR

Vice-  
Chancellor

**40.**—(1) There shall be a Vice-Chancellor of the University who shall be the President of the University.

Duties

(2) The Vice-Chancellor and President shall be the chief executive officer of the University and shall call a meeting of and report to the Faculty not less than once in each academic year.

Vice-  
Chancellor  
to act in  
absence of  
Chancellor

(3) In the absence of the Chancellor or there being a vacancy in the office, the Vice-Chancellor or a member of the Faculty appointed by him shall act as Chancellor at Convocation.

Idem

(4) In the absence of both Chancellor and Vice-Chancellor or if both offices are vacant, the Chancellor's duties shall be performed by a member of the Faculty appointed by the Senate for the purpose.

#### OFFICIAL VISITOR

Official  
Visitor

**41.** The Lieutenant Governor of the Province of Ontario is the Official Visitor of the University.

#### GENERAL

Review

**42.** The Board and the Senate shall review this Act within ten years from the date of its enactment.

Former  
members  
continue  
until new  
Board and  
Senate  
constituted

**43.** The members of the Board and the Senate holding office immediately before this Act comes into force shall continue to hold office and constitute the Board and the Senate under this Act until the members of the Board and Senate are elected or appointed in accordance with this Act.

44. *The University of Western Ontario Act, 1967*, being <sup>Repeal</sup> chapter 134, is repealed.

45. This Act comes into force on the day it receives <sup>Commence-</sup>  
Royal Assent. <sup>ment</sup>

46. This Act may be cited as *The University of Western* <sup>Short title</sup>  
*Ontario Act, 1974*.



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*1st Reading*

April 4th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. WALKER

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting the Waterloo-Wellington Airport**

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MR. GOOD

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BILL Pr22

1974

## An Act respecting the Waterloo-Wellington Airport

**W**HEREAS The Corporation of the City of Guelph and <sup>Preamble</sup>  
The Regional Municipality of Waterloo hereby apply  
for special legislation in respect of the matters herein set  
forth, and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and  
consent of the Legislative Assembly of the Province of  
Ontario, enacts as follows:

**1.** In this Act,

Interpre-  
tation

- (a) "Airport" means the Waterloo-Wellington Airport;
- (b) "City" means The Corporation of the City of Guelph;
- (c) "Commission" means The Waterloo-Wellington Air-  
port Commission;
- (d) "Regional Municipality" means The Regional Muni-  
cipality of Waterloo.

**2.**—(1) The Agreement dated the 21st day of June, 1948, <sup>Agreements confirmed</sup>  
between The Corporation of the City of Kitchener, The Cor-  
poration of the City of Guelph, The Corporation of the City  
of Galt, The Corporation of the City of Waterloo and The  
Corporation of the Town of Preston, hereinafter called the  
1948 agreement, set forth in Schedule A hereto, as modified  
by the agreement dated the 13th day of August, 1973,  
between The Corporation of the City of Kitchener, The  
Corporation of the City of Guelph, The Corporation of the  
City of Cambridge, The Corporation of the City of Waterloo  
and The Regional Municipality of Waterloo, hereinafter  
referred to as the 1973 agreement, set forth in Schedule B  
hereto and the last-mentioned agreement, are hereby ratified  
and confirmed and declared to be valid and binding upon  
the parties thereto and their successors.

Commission  
has power  
to hold  
land

(2) The Commission referred to in the 1948 agreement shall be deemed to have been a body corporate with power to acquire and hold land in its own name for airport purposes since its inception.

Disposition  
of proceeds  
of sale

(3) The proceeds of any sale of any of the lands referred to in the 1973 agreement shall be disposed of as provided therein and the proceeds of any sale of any lands acquired after the 1973 agreement shall belong to the City and the Regional Municipality in proportion to their respective contribution to the cost thereof.

Further  
agreements

(4) The City and the Regional Municipality may make further agreements respecting the Airport, and may amend the 1973 agreement, provided, however, that no such agreement shall affect the rights of any other party to the 1973 agreement thereunder without the consent of such other party.

Commence-  
ment

**3.** This Act comes into force on the day it receives Royal Assent.

Short title

**4.** This Act may be cited as *The Waterloo-Wellingborough Airport Act, 1974*.



## SCHEDULE A

THIS AGREEMENT made this 21st day of June, A D 1948

BETWEEN:

THE CORPORATION OF THE CITY OF KITCHENER,  
herein called "Kitchener"

OF THE FIRST PART,

THE CORPORATION OF THE CITY OF GUELPH,  
herein called "Guelph"

OF THE SECOND PART,

THE CORPORATION OF THE CITY OF GALT,  
herein called "Galt"

OF THE THIRD PART,

THE CORPORATION OF THE CITY OF WATERLOO,  
herein called "Waterloo"

OF THE FOURTH PART,

— and —

THE CORPORATION OF THE TOWN OF PRESTON,  
herein called "Preston"

OF THE FIFTH PART.

WHEREAS paragraph number 34 of section 404 of *The Municipal Act*, R.S.O. 1937, Chapter 266, provides that by-laws may be passed by the councils of all municipalities for the establishment of or for granting aid to the establishment of air harbours or landing grounds in compliance with the "Air Regulations, 1920", as issued by the Air Board of the Dominion of Canada and such other regulations as may be issued from time to time by the said Air Board, and for granting aid for aeronautical research work and for the development and general advancement of the science of aeronautics and the use of aircraft.

AND WHEREAS the said paragraph number 34 further provides that the councils of any two or more municipalities may enter into an agreement for the establishment of an air harbour and the joint exercise of all the powers and rights contained in such paragraph upon such terms as may be agreed and may entrust the control and management of any air harbour or landing ground so established to a commission appointed by such councils pursuant to agreement;

AND WHEREAS the parties hereto deem it advisable to establish an air harbour as hereinafter mentioned, to provide for the joint exercise in connection with such air harbour of all the powers and rights contained in such paragraph number 34 and to entrust the control and management of such air harbour to a commission appointed as hereinafter mentioned.

AND WHEREAS the Government of the Dominion of Canada has placed in departmental estimates for the fiscal year 1948-49 the sum of One Hundred Thousand Dollars (\$100,000.00), as the initial instalment of an

estimated expenditure of not less than Four Hundred and Sixty Thousand Dollars (\$460,000.00), which is to be expended by the said Government on the construction of such air harbour.

AND WHEREAS the parties hereto deem it advisable to provide for the acquisition of the land required for such air harbour and the construction of a hangar and an administration building thereon, the estimated cost of which is One Hundred and Twenty-Three Thousand Six Hundred Dollars (\$123,600.00).

NOW THEREFORE this Agreement witnesseth that the parties hereto, in consideration of the premises and the mutual covenants and agreements hereinafter contained and expressed, mutually covenant and agree as follows

1. The parties hereto shall establish an air harbour in the vicinity of Kossuth in the County of Waterloo and for such purpose shall acquire the land described in Schedule A hereunto annexed and construct a hangar and an administration building thereon. Such air harbour shall be established in compliance with the "Air Regulations, 1920", as issued by the Air Board of the Dominion of Canada and such other regulations as may have been heretofore issued or may be hereafter issued from time to time by the said Air Board.

2. Such air harbour shall be constructed in accordance with modern design and shall have three landing strips each of not less than 4300 feet in length including a hard surfaced runway of not less than 3700 feet in length on each of two of such landing strips.

3. The control and management of such air harbour is hereby entrusted to a commission to be known as "The Waterloo-Wellington Airport Commission", the members of such Commission to be appointed as follows: the Council of Kitchener shall appoint three members of such commission; the Council of Guelph shall appoint three members of such commission; the Council of Galt shall appoint three members of such commission; the Council of Waterloo shall appoint three members of such commission; the Council of Preston shall appoint two members of such commission; each member of such commission shall hold office for one year but shall continue in office until his successor is appointed and shall be eligible for reappointment.

4. From the cost of the land and buildings referred to in paragraph number 1 shall be deducted any grants or contributions made by municipalities other than the municipalities parties to this Agreement and the net cost shall be borne and paid by the parties hereto on a per capita basis; the population of each of the parties hereto shall be determined in accordance with the returns of the assessors of each of the parties hereto for the year 1947.

5. The Waterloo-Wellington Airport Commission shall have the right to acquire the land described in Schedule A hereunto annexed and construct a hangar and an administration building thereon and to obligate each of the parties hereto for its respective share of the cost thereof in accordance with the provisions of this Agreement but such Commission shall have no further right to obligate the parties hereto to the expenditure of further moneys and shall have no right to expend moneys other than such moneys as may be hereafter provided for the said Commission by the parties hereto, provided that such restriction shall not apply to moneys paid to such Commission by persons, corporations or governments other than the parties to this Agreement.

IN WITNESS WHEREOF the parties hereto have hereunto caused to be affixed their respective corporate seals under the hands of their respective Mayors and Clerks.

CORPORATION OF THE CITY OF GUELPH

*Mayor*

*Clerk*

## SCHEDULE B

THIS AGREEMENT made this 13th day of August, A.D. 1973.

BETWEEN:

THE CORPORATION OF THE CITY OF KITCHENER,  
hereinafter called "Kitchener",

OF THE FIRST PART,

THE CORPORATION OF THE CITY OF GUELPH,  
hereinafter called "Guelph",

OF THE SECOND PART,

THE CORPORATION OF THE CITY OF CAMBRIDGE,  
hereinafter called "Cambridge",

OF THE THIRD PART,

THE CORPORATION OF THE CITY OF WATERLOO,  
hereinafter called "Waterloo",

OF THE FOURTH PART,

THE REGIONAL MUNICIPALITY OF WATERLOO,  
hereinafter called "The Regional Municipality",

OF THE FIFTH PART.

WHEREAS by an agreement dated the 21st day of June, 1948, the Cities of Kitchener, Guelph, Galt and Waterloo and the Town of Preston agreed to establish an Airport.

WHEREAS the lands described in the Schedule hereto have been acquired and an Airport has been established thereon pursuant to said agreement and an agreement dated the 9th day of June, 1950 between His Majesty the King represented by the Minister of Transport, Canada and the said Cities and Town.

WHEREAS by *The Regional Municipality of Waterloo Act, 1972*, the Regional Municipality of Waterloo was created. The City of Galt and the Towns of Preston and Hespeler were amalgamated to form the City of Cambridge.

WHEREAS by section 27 of *The Regional Municipality of Waterloo Act, 1972*, the Region has the powers as are granted to local municipalities by paragraph 9 of section 352 of *The Municipal Act*.

WHEREAS the Cities of Cambridge, Kitchener and Waterloo desire to transfer their interest in the said Airport to the Regional Municipality of Waterloo on the terms and conditions herein set out.

WHEREAS Guelph joins herein for the purpose of concurring herein.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH that in consideration of the premises and the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

1. The Waterloo-Wellington Airport established pursuant to the agreements recited above shall be continued.



2 (1) The Waterloo-Wellington Airport Commission shall be continued and the membership of the Commission shall be as follows:

- (a) Four members appointed by and who are members of the Council of the Regional Municipality of Waterloo.
- (b) Four members appointed by the Council of the Regional Municipality of Waterloo, who are not members of the Council.
- (c) One member appointed by and who is a member of the Council of the City of Guelph.
- (d) One member appointed by the Council of the City of Guelph who is not a member of the Council.

(2) Each member of the Commission shall hold office for one year and until his successor is appointed and, subject to those members who are required to be members of a Council continuing to be members thereof, shall be eligible for reappointment.

3. The Commission shall annually submit a budget to the Council of the City of Guelph and to the Council of The Regional Municipality of Waterloo and shall not expend any moneys not provided for in an approved budget, provided that until approval of the budget in each year operations may continue on the basis of the previous years budget extended on a *pro rata* basis.

4. The net cost of operating the Airport, after the deduction of revenues and any grants received from Canada, any Province or any municipality other than those who are a party to this agreement shall be divided between the City of Guelph and The Regional Municipality of Waterloo, on a *per capita* basis on the basis of the last annual census taken under *The Assessment Act*, provided that the population of The Regional Municipality for this purpose shall be deemed to be the sum of the populations of the Cities of Cambridge, Kitchener and Waterloo. The Region's share shall be apportioned among all the Area Municipalities of the Region in accordance with *The Regional Municipality of Waterloo Act, 1972*.

5. Subject to paragraph three above and to any lawful rules and regulations made by or by authority of any statute of Canada, the Commission shall have the control and management of the Airport.

6. (1) The Cities of Cambridge, Kitchener and Waterloo transfer their respective interests in the Airport being the lands described in Schedule A, to The Regional Municipality of Waterloo.

(2) Notwithstanding subsection (1):

- (a) If the revenues received from the rental of any part of the lands for purposes which are not directly related to the use of the Airport as such exceed one thousand dollars in any year, such excess shall not be credited against the budget but shall be divided amongst the cities in the proportion set out in sub-paragraph (6) below.
- (b) none of the lands shall be sold without the concurrence of at least two of Cambridge, Kitchener and Waterloo;
- (c) the proceeds of any sale of the lands or part thereof shall be divided amongst the four cities in the proportion set out in sub-paragraph (6) below.



(3) Notwithstanding clause (b) of subparagraph (2) above the Airport may be sold by Guelph and the Region as a going concern to Her Majesty the Queen in the right of Canada at its then current market value, subject to adjustment for any capital grants made by Her Majesty.

(4) If the use of the lands as an Airport is discontinued:

(a) the Region and Guelph may make such use of the lands as is approved by Guelph and any two of the other cities, on such terms as may be agreed on; or

(b) Guelph and the Region, subject to the concurrence of at least two of the other cities may sell the lands; or,

(c) in default of agreement as to use or sale, the Region shall return the interests of Cambridge, Kitchener and Waterloo to them.

(5) Any party to this agreement may be a bidder or purchaser in any sale of the lands or any part thereof other than a sale to Her Majesty under subparagraph (3) above.

(6) For the purposes of subparagraph (2) above the equities of the parties shall be as follows:

GUELPH	23.80 per cent
CAMBRIDGE	23.32 per cent
KITCHENER	40.91 per cent
WATERLOO	11.97 per cent

7. This agreement supersedes the agreement referred to in the first recital.

8. This Agreement is subject to the Agreement with His Majesty the King, recited above.

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors, administrators and assigns.

IN WITNESS WHEREOF the Corporations and the Region have caused this Agreement to be executed by the affixing of their Corporate Seals attested by the signatures of their proper officers, duly authorized in that behalf.

SIGNED, SEALED AND  
DELIVERED:  
in the presence of:

THE CORPORATION OF THE CITY OF KITCHENER

Per:

*Mayor*

Per:

*Clerk*

THE CORPORATION OF THE CITY OF GUELPH

Per:

*Mayor*

Per:

*Clerk*

## THE CORPORATION OF THE CITY OF CAMBRIDGE

Per: *Mayor*

Per: *Deputy Clerk*

## THE CORPORATION OF THE CITY OF WATERLOO

Per: *Mayor*

Per: *Clerk*

## THE REGIONAL MUNICIPALITY OF WATERLOO

Per: *Chairman*

Per: *Clerk*

*SCHEDULE A*

ALL AND SINGULAR that certain parcel or tract of land situate, lying and being in the Township of Woolwich, in the Regional Municipality of Waterloo (formerly in the Township of Waterloo in the County of Waterloo) and Province of Ontario more particularly described as follows:

FIRSTLY: The whole of Lots 5, 7, 8, 9 and 10 in a Plan of Subdivision of Part of Lot 110 of the German Company Tract of the said Township of Waterloo made for William Moyer, Esq. and dated the 18th day of August, 1863.

SECONDLY: Part of Lot 6 in a Plan of Subdivision of Part of Lot 110 of the German Company Tract of the said Township of Waterloo made for William Moyer, Esq. and dated the 18th day of August, 1863, as described in deed registered on the 10th day of February, 1950 in the Registry Office for the Registry Division of Waterloo North (58) as Number 42466.

THIRDLY: Parts of Lots 102, 103, 110, 111 and 126 in the Upper Block of the German Company Tract as described in deeds registered in the Registry Office for the Registry Division of Waterloo (now of record in the Registry Office for the Registry Division of Waterloo North (58) as Numbers 40098, 40237, 40994, 40995, 41355, 41484, 41529, 41629, 42466, 43233 and 45475.









An Act respecting  
the Waterloo-Wellington Airport

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*1st Reading*

April 4th, 1974

*2nd Reading*

*3rd Reading*

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MR. GOOD

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(*Private Bill*)

# **BILL Pr22**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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## **An Act respecting the Waterloo-Wellington Airport**

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MR. GOOD

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April 1, 1901

Received of the Treasurer of the  
City of New York

the sum of \$100.00 for the City of New York

100

BILL Pr22

1974

## An Act respecting the Waterloo-Wellington Airport

**W**HEREAS The Corporation of the City of Guelph and Preamble  
The Regional Municipality of Waterloo hereby apply  
for special legislation in respect of the matters herein set  
forth; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and  
consent of the Legislative Assembly of the Province of  
Ontario, enacts as follows:

### 1. In this Act,

Interpre-  
tation

- (a) "Airport" means the Waterloo-Wellington Airport;
- (b) "City" means The Corporation of the City of Guelph;
- (c) "Commission" means The Waterloo-Wellington Airport Commission;
- (d) "Regional Municipality" means The Regional Municipality of Waterloo.

**2.**—(1) The Agreement dated the 21st day of June, 1948, Agreements confirmed  
between The Corporation of the City of Kitchener, The Corporation of the City of Guelph, The Corporation of the City of Galt, The Corporation of the City of Waterloo and The Corporation of the Town of Preston, hereinafter called the 1948 agreement, set forth in Schedule A hereto, as modified by the agreement dated the 13th day of August, 1973, between The Corporation of the City of Kitchener, The Corporation of the City of Guelph, The Corporation of the City of Cambridge, The Corporation of the City of Waterloo and The Regional Municipality of Waterloo, hereinafter referred to as the 1973 agreement, set forth in Schedule B hereto and the last-mentioned agreement, are hereby ratified and confirmed and declared to be valid and binding upon the parties thereto and their successors.



Commission  
has power  
to hold  
land

(2) The Commission referred to in the 1948 agreement shall be deemed to have been a body corporate with power to acquire and hold land in its own name for airport purposes since its inception.

Disposition  
of proceeds  
of sale

(3) The proceeds of any sale of any of the lands referred to in the 1973 agreement shall be disposed of as provided therein and the proceeds of any sale of any lands acquired after the 1973 agreement shall belong to the City and the Regional Municipality in proportion to their respective contribution to the cost thereof.

Further  
agreements

(4) The City and the Regional Municipality may make further agreements respecting the Airport, and may amend the 1973 agreement, provided, however, that no such agreement shall affect the rights of any other party to the 1973 agreement thereunder without the consent of such other party.

Commence-  
ment

**3.** This Act comes into force on the day it receives Royal Assent.

Short title

**4.** This Act may be cited as *The Waterloo-Wellington Airport Act, 1974*.

## SCHEDULE A

THIS AGREEMENT made this 21st day of June, A.D. 1948.

BETWEEN:

THE CORPORATION OF THE CITY OF KITCHENER,  
herein called "Kitchener"

OF THE FIRST PART,

THE CORPORATION OF THE CITY OF GUELPH,  
herein called "Guelph"

OF THE SECOND PART,

THE CORPORATION OF THE CITY OF GALT,  
herein called "Galt"

OF THE THIRD PART,

THE CORPORATION OF THE CITY OF WATERLOO,  
herein called "Waterloo"

OF THE FOURTH PART,

— and —

THE CORPORATION OF THE TOWN OF PRESTON,  
herein called "Preston"

OF THE FIFTH PART.

WHEREAS paragraph number 34 of section 404 of *The Municipal Act*, R.S.O. 1937, Chapter 266, provides that by-laws may be passed by the councils of all municipalities for the establishment of or for granting aid to the establishment of air harbours or landing grounds in compliance with the "Air Regulations, 1920", as issued by the Air Board of the Dominion of Canada and such other regulations as may be issued from time to time by the said Air Board, and for granting aid for aeronautical research work and for the development and general advancement of the science of aeronautics and the use of aircraft;

AND WHEREAS the said paragraph number 34 further provides that the councils of any two or more municipalities may enter into an agreement for the establishment of an air harbour and the joint exercise of all the powers and rights contained in such paragraph upon such terms as may be agreed and may entrust the control and management of any air harbour or landing ground so established to a commission appointed by such councils pursuant to agreement;

AND WHEREAS the parties hereto deem it advisable to establish an air harbour as hereinafter mentioned, to provide for the joint exercise in connection with such air harbour of all the powers and rights contained in such paragraph number 34 and to entrust the control and management of such air harbour to a commission appointed as hereinafter mentioned.

AND WHEREAS the Government of the Dominion of Canada has placed in departmental estimates for the fiscal year 1948-49 the sum of One Hundred Thousand Dollars (\$100,000.00), as the initial instalment of an

estimated expenditure of not less than Four Hundred and Sixty Thousand Dollars (\$460,000.00), which is to be expended by the said Government on the construction of such air harbour.

AND WHEREAS the parties hereto deem it advisable to provide for the acquisition of the land required for such air harbour and the construction of a hangar and an administration building thereon, the estimated cost of which is One Hundred and Twenty-Three Thousand Six Hundred Dollars (\$123,600.00).

NOW THEREFORE this Agreement witnesseth that the parties hereto, in consideration of the premises and the mutual covenants and agreements hereinafter contained and expressed, mutually covenant and agree as follows

1. The parties hereto shall establish an air harbour in the vicinity of Kossuth in the County of Waterloo and for such purpose shall acquire the land described in Schedule A hereunto annexed and construct a hangar and an administration building thereon. Such air harbour shall be established in compliance with the "Air Regulations, 1920", as issued by the Air Board of the Dominion of Canada and such other regulations as may have been heretofore issued or may be hereafter issued from time to time by the said Air Board.

2. Such air harbour shall be constructed in accordance with modern design and shall have three landing strips each of not less than 4300 feet in length including a hard surfaced runway of not less than 3700 feet in length on each of two of such landing strips.

3. The control and management of such air harbour is hereby entrusted to a commission to be known as "The Waterloo-Wellington Airport Commission", the members of such Commission to be appointed as follows: the Council of Kitchener shall appoint three members of such commission; the Council of Guelph shall appoint three members of such commission; the Council of Galt shall appoint three members of such commission; the Council of Waterloo shall appoint three members of such commission; the Council of Preston shall appoint two members of such commission; each member of such commission shall hold office for one year but shall continue in office until his successor is appointed and shall be eligible for reappointment.

4. From the cost of the land and buildings referred to in paragraph number 1 shall be deducted any grants or contributions made by municipalities other than the municipalities parties to this Agreement and the net cost shall be borne and paid by the parties hereto on a per capita basis; the population of each of the parties hereto shall be determined in accordance with the returns of the assessors of each of the parties hereto for the year 1947.

5. The Waterloo-Wellington Airport Commission shall have the right to acquire the land described in Schedule A hereunto annexed and construct a hangar and an administration building thereon and to obligate each of the parties hereto for its respective share of the cost thereof in accordance with the provisions of this Agreement but such Commission shall have no further right to obligate the parties hereto to the expenditure of further moneys and shall have no right to expend moneys other than such moneys as may be hereafter provided for the said Commission by the parties hereto, provided that such restriction shall not apply to moneys paid to such Commission by persons, corporations or governments other than the parties to this Agreement.

IN WITNESS WHEREOF the parties hereto have hereunto caused to be affixed their respective corporate seals under the hands of their respective Mayors and Clerks.

CORPORATION OF THE CITY OF GUELPH

*Mayor*

*Clerk*



## SCHEDULE B

THIS AGREEMENT made this 13th day of August, A.D. 1973.

BETWEEN:

THE CORPORATION OF THE CITY OF KITCHENER,  
hereinafter called "Kitchener",

OF THE FIRST PART,

THE CORPORATION OF THE CITY OF GUELPH,  
hereinafter called "Guelph",

OF THE SECOND PART,

THE CORPORATION OF THE CITY OF CAMBRIDGE,  
hereinafter called "Cambridge",

OF THE THIRD PART,

THE CORPORATION OF THE CITY OF WATERLOO,  
hereinafter called "Waterloo",

OF THE FOURTH PART,

THE REGIONAL MUNICIPALITY OF WATERLOO,  
hereinafter called "The Regional Municipality",

OF THE FIFTH PART.

WHEREAS by an agreement dated the 21st day of June, 1948, the Cities of Kitchener, Guelph, Galt and Waterloo and the Town of Preston agreed to establish an Airport.

WHEREAS the lands described in the Schedule hereto have been acquired and an Airport has been established thereon pursuant to said agreement and an agreement dated the 9th day of June, 1950 between His Majesty the King represented by the Minister of Transport, Canada and the said Cities and Town.

WHEREAS by *The Regional Municipality of Waterloo Act, 1972*, the Regional Municipality of Waterloo was created. The City of Galt and the Towns of Preston and Hespeler were amalgamated to form the City of Cambridge.

WHEREAS by section 27 of *The Regional Municipality of Waterloo Act, 1972*, the Region has the powers as are granted to local municipalities by paragraph 9 of section 352 of *The Municipal Act*.

WHEREAS the Cities of Cambridge, Kitchener and Waterloo desire to transfer their interest in the said Airport to the Regional Municipality of Waterloo on the terms and conditions herein set out.

WHEREAS Guelph joins herein for the purpose of concurring herein.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH that in consideration of the premises and the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

1. The Waterloo-Wellington Airport established pursuant to the agreements recited above shall be continued.



2 (1) The Waterloo-Wellington Airport Commission shall be continued and the membership of the Commission shall be as follows:

- (a) Four members appointed by and who are members of the Council of the Regional Municipality of Waterloo;
- (b) Four members appointed by the Council of the Regional Municipality of Waterloo, who are not members of the Council;
- (c) One member appointed by and who is a member of the Council of the City of Guelph;
- (d) One member appointed by the Council of the City of Guelph who is not a member of the Council.

(2) Each member of the Commission shall hold office for one year and until his successor is appointed and, subject to those members who are required to be members of a Council continuing to be members thereof, shall be eligible for reappointment.

3. The Commission shall annually submit a budget to the Council of the City of Guelph and to the Council of The Regional Municipality of Waterloo and shall not expend any moneys not provided for in an approved budget, provided that until approval of the budget in each year operations may continue on the basis of the previous years budget extended on a *pro rata* basis.

4. The net cost of operating the Airport, after the deduction of revenues and any grants received from Canada, any Province or any municipality other than those who are a party to this agreement shall be divided between the City of Guelph and The Regional Municipality of Waterloo, on a *per capita* basis on the basis of the last annual census taken under *The Assessment Act*, provided that the population of The Regional Municipality for this purpose shall be deemed to be the sum of the populations of the Cities of Cambridge, Kitchener and Waterloo. The Region's share shall be apportioned among all the Area Municipalities of the Region in accordance with *The Regional Municipality of Waterloo Act, 1972*.

5. Subject to paragraph three above and to any lawful rules and regulations made by or by authority of any statute of Canada, the Commission shall have the control and management of the Airport.

6—(1) The Cities of Cambridge, Kitchener and Waterloo transfer their respective interests in the Airport being the lands described in Schedule A, to The Regional Municipality of Waterloo.

(2) Notwithstanding subsection (1):

- (a) If the revenues received from the rental of any part of the lands for purposes which are not directly related to the use of the Airport as such exceed one thousand dollars in any year, such excess shall not be credited against the budget but shall be divided amongst the cities in the proportion set out in sub-paragraph (6) below;
- (b) none of the lands shall be sold without the concurrence of at least two of Cambridge, Kitchener and Waterloo;
- (c) the proceeds of any sale of the lands or part thereof shall be divided amongst the four cities in the proportion set out in sub-paragraph (6) below.

(3) Notwithstanding clause (b) of subparagraph (2) above the Airport may be sold by Guelph and the Region as a going concern to Her Majesty the Queen in the right of Canada at its then current market value, subject to adjustment for any capital grants made by Her Majesty.

(4) If the use of the lands as an Airport is discontinued:

(a) the Region and Guelph may make such use of the lands as is approved by Guelph and any two of the other cities, on such terms as may be agreed on; or

(b) Guelph and the Region, subject to the concurrence of at least two of the other cities may sell the lands; or,

(c) in default of agreement as to use or sale, the Region shall return the interests of Cambridge, Kitchener and Waterloo to them.

(5) Any party to this agreement may be a bidder or purchaser in any sale of the lands or any part thereof other than a sale to Her Majesty under subparagraph (3) above.

(6) For the purposes of subparagraph (2) above the equities of the parties shall be as follows:

GUELPH	23.80 per cent
CAMBRIDGE	23.32 per cent
KITCHENER	40.91 per cent
WATERLOO	11.97 per cent

7. This agreement supersedes the agreement referred to in the first recital.

8. This Agreement is subject to the Agreement with His Majesty the King, recited above.

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors, administrators and assigns.

IN WITNESS WHEREOF the Corporations and the Region have caused this Agreement to be executed by the affixing of their Corporate Seals attested by the signatures of their proper officers, duly authorized in that behalf.

SIGNED, SEALED AND  
DELIVERED:  
in the presence of:

THE CORPORATION OF THE CITY OF KITCHENER

Per:

*Mayor*

Per:

*Clerk*

THE CORPORATION OF THE CITY OF GUELPH

Per:

*Mayor*

Per:

*Clerk*

## THE CORPORATION OF THE CITY OF CAMBRIDGE

Per:

*Mayor*

Per:

*Deputy Clerk*

## THE CORPORATION OF THE CITY OF WATERLOO

Per:

*Mayor*

Per:

*Clerk*

## THE REGIONAL MUNICIPALITY OF WATERLOO

Per:

*Chairman*

Per:

*Clerk*

*SCHEDULE A*

ALL AND SINGULAR that certain parcel or tract of land situate, lying and being in the Township of Woolwich, in the Regional Municipality of Waterloo (formerly in the Township of Waterloo in the County of Waterloo) and Province of Ontario more particularly described as follows:

FIRSTLY: The whole of Lots 5, 7, 8, 9 and 10 in a Plan of Subdivision of Part of Lot 110 of the German Company Tract of the said Township of Waterloo made for William Moyer, Esq. and dated the 18th day of August, 1863.

SECONDLY: Part of Lot 6 in a Plan of Subdivision of Part of Lot 110 of the German Company Tract of the said Township of Waterloo made for William Moyer, Esq. and dated the 18th day of August, 1863, as described in deed registered on the 10th day of February, 1950 in the Registry Office for the Registry Division of Waterloo North (58) as Number 42466.

THIRDLY: Parts of Lots 102, 103, 110, 111 and 126 in the Upper Block of the German Company Tract as described in deeds registered in the Registry Office for the Registry Division of Waterloo (now of record in the Registry Office for the Registry Division of Waterloo North (58) as Numbers 40098, 40237, 40994, 40995, 41355, 41484, 41529, 41629, 42466, 43233 and 45475.









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*1st Reading*

April 4th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. GOOD

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting Dominion Cartage Limited  
and Downtown Storage Company Limited**

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MR. MACBETH

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BILL Pr23

1974

**An Act respecting Dominion Cartage  
Limited and Downtown Storage Company  
Limited**

**W**HEREAS Frederick William Torrance, Stanley John Price and Hilda Jean Price hereby represent that Downtown Storage Company Limited and Dominion Cartage Limited, herein called the Corporations, were incorporated by letters patent dated the 28th day of May, 1956, in the case of Downtown Storage Company Limited, and dated the 2nd day of March, 1954, in the case of Dominion Cartage Limited; that the Provincial Secretary by order dated the 10th day of December, 1969, in the case of Downtown Storage Company Limited, and the 9th day of April, 1969, in the case of Dominion Cartage Limited, and made under the authority of subsection 2 of section 326 of *The Corporations Act*, being chapter 71 of the Revised Statutes of Ontario, 1960, cancelled the letters patent of the Corporations and declared them to be dissolved; that notice of default in filing annual returns required by the said subsection 2 of section 326 of *The Corporations Act* was sent to each of the persons of record on the files of the Department of Financial and Commercial Affairs and that these persons of record in the files of the Department of Financial and Commercial Affairs are the applicants herein and were all directors and shareholders of the Corporations at the time of their dissolution; although the said notice of default was sent to each of the directors of the Corporations it was not or apparently it was not received by all of them, and in any event, that through inadvertence necessary annual returns for the Corporations were not filed, and the funds for renewal of the charters and the required documentation in connection with revival of the Corporations were apparently not received within the time provided by statute; that the Corporations at the time of their dissolution were and are now actively carrying on the businesses authorized by their letters patent; and whereas the applicants hereby apply for special legislation reviving the Corporations; and whereas it is expedient to grant the application;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Downtown  
Storage  
Company  
Limited,  
revived

**1.** Downtown Storage Company Limited, incorporated by letters patent dated the 28th day of May, 1956, is hereby revived and is, subject to any rights acquired by any person after its dissolution, hereby restored to its legal position as a company incorporated by letters patent, including all its property, rights, privileges, and franchises and subject to all its liabilities, contracts, disabilities and debts as at the date of its dissolution in the same manner and to the same extent as if it had not been dissolved.

Dominion  
Cartage  
Limited,  
revived

**2.** Dominion Cartage Limited, incorporated by letters patent dated the 2nd day of March, 1954, is hereby revived and is, subject to any rights acquired by any person after its dissolution, hereby restored to its legal position as a company incorporated by letters patent, including all its property, rights, privileges, and franchises and subject to all its liabilities, contracts, disabilities and debts as at the date of its dissolution in the same manner and to the same extent as if it had not been dissolved.

Commence-  
ment

**3.** This Act comes into force on the day it receives Royal Assent.

Short title

**4.** This Act may be cited as *The Dominion Cartage Limited and Downtown Storage Company Limited Act, 1974*.









AN ACT RESPECTING DOMINION  
Cartage Limited and Downtown  
Storage Company Limited

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*1st Reading*

*2nd Reading*

*3rd Reading*

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MR. MACBETH

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*(Private Bill)*

# **BILL Pr23**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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## **An Act respecting Dominion Cartage Limited and Downtown Storage Company Limited**

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**MR. TURNER**

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**TORONTO**

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL Pr23

1974

**An Act respecting Dominion Cartage  
Limited and Downtown Storage Company  
Limited**

**W**HEREAS Frederick William Torrance, Stanley John Price and Hilda Jean Price hereby represent that Preamble  
Downtown Storage Company Limited and Dominion Cartage Limited, herein called the Corporations, were incorporated by letters patent dated the 28th day of May, 1956, in the case of Downtown Storage Company Limited, and dated the 2nd day of March, 1954, in the case of Dominion Cartage Limited; that the Provincial Secretary by order dated the 10th day of December, 1969, in the case of Downtown Storage Company Limited, and the 9th day of April, 1969, in the case of Dominion Cartage Limited, and made under the authority of subsection 2 of section 326 of *The Corporations Act*, being chapter 71 of the Revised Statutes of Ontario, 1960, cancelled the letters patent of the Corporations and declared them to be dissolved; that notice of default in filing annual returns required by the said subsection 2 of section 326 of *The Corporations Act* was sent to each of the persons of record on the files of the Department of Financial and Commercial Affairs and that these persons of record in the files of the Department of Financial and Commercial Affairs are the applicants herein and were all directors and shareholders of the Corporations at the time of their dissolution; although the said notice of default was sent to each of the directors of the Corporations it was not or apparently it was not received by all of them, and in any event, that through inadvertence necessary annual returns for the Corporations were not filed, and the funds for renewal of the charters and the required documentation in connection with revival of the Corporations were apparently not received within the time provided by statute; that the Corporations at the time of their dissolution were and are now actively carrying on the businesses authorized by their letters patent; and whereas the applicants hereby apply for special legislation reviving the Corporations; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Downtown  
Storage  
Company  
Limited,  
revived

**1.** Downtown Storage Company Limited, incorporated by letters patent dated the 28th day of May, 1956, is hereby revived and is, subject to any rights acquired by any person after its dissolution, hereby restored to its legal position as a company incorporated by letters patent, including all its property, rights, privileges, and franchises and subject to all its liabilities, contracts, disabilities and debts as at the date of its dissolution in the same manner and to the same extent as if it had not been dissolved.

Dominion  
Cartage  
Limited,  
revived

**2.** Dominion Cartage Limited, incorporated by letters patent dated the 2nd day of March, 1954, is hereby revived and is, subject to any rights acquired by any person after its dissolution, hereby restored to its legal position as a company incorporated by letters patent, including all its property, rights, privileges, and franchises and subject to all its liabilities, contracts, disabilities and debts as at the date of its dissolution in the same manner and to the same extent as if it had not been dissolved.

Commence-  
ment

**3.** This Act comes into force on the day it receives Royal Assent.

Short title

**4.** This Act may be cited as *The Dominion Cartage Limited and Downtown Storage Company Limited Act, 1974.*









*1st Reading*

April 2nd, 1974

*2nd Reading*

February 10th, 1975

*3rd Reading*

February 10th, 1975

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MR. TURNER

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting the City of Chatham**

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**MR. SPENCE**

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BILL Pr24

1974

## An Act respecting the City of Chatham

**W**HEREAS The Corporation of the City of Chatham, Preamble  
 herein called the Corporation, hereby applies for special  
 legislation in respect of the matter hereinafter set forth;  
 and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent  
 of the Legislative Assembly of the Province of Ontario,  
 enacts as follows:

1. Notwithstanding section 64 of *The Ontario Municipal* Agreement  
 validated  
 R.S.O. 1970,  
 c. 323  
*Board Act*, by-law No. 6165 of the Corporation, set forth  
 in Schedule A hereto, passed by the council of the Cor-  
 poration on the 10th day of May, 1971, authorizing the  
 entering into of an Agreement set forth in Schedule B hereto,  
 with Ridge Landfill Corporation Limited dated the 3rd day  
 of May, 1971, providing for a sanitary land fill site for  
 the disposition of garbage by the Corporation upon the terms  
 and conditions as more particularly set out in the Agree-  
 ment for a period to expire on the 31st day of October,  
 1976, and the said Agreement, are hereby declared to be  
 valid and binding upon the Corporation and the ratepayers  
 and inhabitants thereof and upon Ridge Landfill Cor-  
 poration Limited.

2. This Act comes into force on the day it receives Royal Commence-  
 ment  
 Assent.

3. This Act may be cited as *The City of Chatham Act*, Short title  
 1974.

## SCHEDULE A

BY-LAW NUMBER 6165

OF THE CORPORATION OF THE CITY OF CHATHAM

A By-law to authorize the Mayor and Clerk to execute an Agreement with Ridge Landfill Corporation Limited with regard to the provision of a disposal site for garbage received from the City of Chatham, bearing the date, May 3rd, 1971.

Finally passed the 10th day of May, A.D. 1971.

---

WHEREAS the present Agreement with Alan F. Doey for the disposal of garbage from the City of Chatham is about to expire.

AND WHEREAS a new five year Agreement between the Ridge Landfill Corporation Limited and the Corporation of the City of Chatham commencing November 1st, 1971, has been drawn up bearing the date of May 3rd, 1971.

BE IT THEREFORE ENACTED by the Municipal Council of The Corporation of the City of Chatham as follows:

That the Mayor and Clerk be and they are hereby authorized to execute, on behalf of The Corporation of the City of Chatham, an Agreement dated the 3rd day of May, 1971, with the Ridge Landfill Corporation Limited, regarding the provisions of a disposal site for garbage received from the City of Chatham.

This By-law shall come into full force and effect on the final passing thereof.

*Mayor.*

*City Clerk.*

## SCHEDULE B

THIS AGREEMENT made this 3rd day of May, A D 1971

BETWEEN

RIDGE LANDFILL CORPORATION LIMITED  
hereinafter called the "Contractor",

OF THE FIRST PART,

—and—

THE CORPORATION OF THE CITY OF CHATHAM  
hereinafter called the "Corporation",

OF THE SECOND PART.

WHEREAS the Corporation has accepted the tender of the Contractor for the provision and operation of a Sanitary Landfill Site for receiving and disposing of garbage from the Corporation.

AND WHEREAS the Parties hereto have agreed to enter into these presents to more particularly set out the terms of the Agreement between them

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants herein contained, the Parties hereto hereby covenant and agree as follows:

1. The Contractor will:

- (a) Provide a Sanitary Landfill Site and do all necessary work required to be done by the Contractor to receive all garbage from within the City limits of the Corporation in accordance with the specifications, instructions and regulations contained herein, and the Contractor will provide at his own expense all and every kind of labour, vehicles, tools, equipment, articles and things necessary for the due execution of the said work
- (b) At all times operate the said Sanitary Landfill Site in accordance with the standards and procedures recommended by the Kent County Health Unit as set out in a letter dated September 28th, 1966 from E. G. Brown, M.D., D.P.H., Director and M.O.H., Kent County Health Unit, to Alan F. Doey, a copy of which letter is annexed hereto as Schedule "A" to this agreement, and in accordance with the following specifications:
  - (i) The Site for the prosecution of the work shall be the Northerly 53 acres of Lot 14, Concession 4, W. C. R., Township of Harwich in the County of Kent, or such other site or sites as the Corporation may from time to time approve.
  - (ii) The Contractor will at all times maintain an all weather road within his own property to allow the safe and speedy ingress and egress of vehicles.
  - (iii) The hours at the disposal site for the receiving of garbage from the Corporation shall be Monday to Friday, 8 o'clock a.m. to 5 o'clock p.m., and on Saturday, 8 o'clock a.m. to 12 o'clock noon, Eastern Standard time and Daylight



Saving time when in effect in Chatham. The disposal site will also be open to receive garbage on all holidays on which garbage is collected by the Corporation.

- (iv) The Corporation reserves the right to adjust the "open" hours at the disposal site, if in the opinion of the Engineer, it is necessary.
  - (v) A suitable sign will be erected and maintained clearly marking the disposal site and the said hours for the receipt of garbage.
  - (vi) The Contractor will provide lighting facilities and/or a telephone at the disposal site, if in the opinion of the Corporation they are necessary. The expense of erection, maintenance, and operation of the said facilities shall be the responsibility of the Contractor.
  - (vii) In addition to garbage delivered by the City of Chatham garbage collectors, the Contractor will receive and dispose of the contents of one (1) truck each, daily, from Contractors, Commercial establishments, individual citizens, and industries having an address within the limits of the Corporation, provided the load does not exceed 15 cubic yards of loose material or 4 cubic yards of mechanically compacted material.
- (c) Assume the defence of and indemnify and save harmless the Corporation and its officers and agents from all claims relating to labour, materials and equipment furnished for the work, and to inventions, patents or patent rights used in doing the work. The Contractor shall be responsible for any and all damages or claims for damages or injuries or accidents done to or caused by him, or his employees, or relating to the performance of the work, or any of his operations, or caused by reason of the existence or location or condition of any materials, plant, or machinery used thereon or therein, or which may happen by reason thereof, or arising from any failure, neglect or omission on his part, or on the part of any of his employees, to do or perform any or all of the several acts or things required to be done by him or them under and by these conditions, and covenants, and agrees to hold the Corporation harmless and indemnified from all such damages and claims for damages.
- (d) Together with a guarantee company (approved by the City) resident in Canada or authorized by law to carry on business in Canada, provide annually a one hundred percent (100%) bond for the due performance of this contract by the Contractor.

The said bond shall be deposited with the Clerk of the Corporation. The expense of obtaining the said bond shall be borne by the Contractor.

- (e) Obtain insurance in the amount of \$100,000.00 from an insurance company authorized to carry on business in Canada to cover its public liability and property damage liability under this contract.
- (f) At all times pay or cause to be paid, any assessment or compensation required to be paid pursuant to *The Workmen's Compensation Act*, and, upon failure to do so, the Corporation may pay such assessment or compensation to the Workmen's Com-

pensation Board and deduct the amount of such payment from the monies payable to the Contractor by the Corporation as hereinafter set out. The Contractor will, at any time during the performance or upon completion of the contract, at the request of the Corporation, obtain from the workmen's Compensation Board a certificate that all assessments or compensations payable to the Board have been paid.

- (g) Keep the work under his personal control, and shall not assign, transfer or sublet this contract or any portion thereof without first obtaining the consent of the Corporation, provided however, that the Contractor is hereby permitted to assign this contract to a private corporation of which he shall be the principal shareholder. The consent of the Corporation to any such assignment, transfer, or subletting, shall not however, relieve the Contractor of any responsibility for the proper commencement, execution and completion of the work according to the terms of this contract and the Contractor shall, either in person or through an accredited agent receive all notices, communications, orders, instructions or legal services as if he were performing the work with his own plant and his own men.

2. Should any overseer, mechanic, driver, or workman employed on or about the work or in connection therewith, give any just cause for complaint, the Corporation shall notify the Contractor in writing, stating the reasons therefor, and the Contractor shall dismiss such person forthwith, and he shall not again be employed by the Contractor in the performance of the work without the consent, in writing, of the City Engineer.

3. If the Contractor neglects or fails to commence operation on the date specified, or if he shall become bankrupt or insolvent, or compound with his creditors, or commit any act of insolvency, or shall transfer, assign or sublet or attempt to transfer, assign, or sublet this contract, or any part thereof without the consent of the Corporation, or if at any time the work or any part thereof is, in the judgment of the Engineer, not executed or not being executed, in a sound or workmanlike manner to his satisfaction and in all respects in strict conformity with the contract, or to comply with any reasonable order he may receive from the Engineer, or if the Contractor shall persist in any course in violation of any of the provisions of this contract, then, in each and every case, after twenty-four (24) hours written notice from the Corporation to the Contractor, the Corporation shall have the full right and power, at its discretion, without process or action at law, to take over the operation of the Sanitary Landfill Site for the purposes of this contract, or any part or parts thereof, as specified in the said notice, out of the hands of the Contractor and the Contractor upon receiving notice to that effect, shall vacate possession and give up said operation, or the part or parts thereof specified in the said notice, peaceably to the Corporation, which may either relet the same to any other person or persons, with or without its previously being advertised or may employ workmen and provide the necessary plant at the expense of the Contractor, or may take such other steps as it may consider necessary or advisable in order to secure the completion of the said contract to its satisfaction and the Contractor and his surety in every case shall be liable for all damages, expenditures, and extra expenditures and for all additional costs of the work which may be incurred by reason thereof.

4. Any notice or communication to the Contractor shall be deemed to be well and sufficiently given and served if handed to the Contractor or any of his clerks or agents or if posted or sent to the Contractor at Cedar Springs, Ontario. In any written notice to the Contractor in respect of any work required to be done under any of the provisions of this contract or of any other matter, it shall not be obligatory upon the Engineer to specify



minutely or in detail everything required, nor to specify by measurement the exact extent thereof, or the precise spot or spots where the work may be defective or faulty, or where any of the requirements of the contract have not been observed, but a reference in such notice to the clause or clauses bearing upon the matter, and a description of the locality in general terms and sufficiently clear, in the opinion of the Engineer, to indicate where the defect or trouble exists, shall be deemed to be, and shall be ample notice.

5. The term of this contract will be five consecutive years, commencing on the first day of November, 1971; negotiations for an extension of the term may be conducted at any time during the year 1976.

6. The Corporation will:

- (a) And it does hereby approve the site provided by the Contractor for the operation of a Sanitary Landfill, composed of the Northerly 53 acres of Lot 14, Concession 4, W.C.R. in the Township of Harwich, in the County of Kent and Province of Ontario.
- (b) Pay to the Contractor monthly in arrears not later than the 15th day of the following month, one-twelfth of the annual contract price. The annual contract price shall be calculated, for each calendar year, or part thereof, during which the term of this contract extends, at the rate of one dollar and ten cents (\$1.10) per capita of the Corporation's population as established by the Corporation's current revised assessment roll on the first day of January in each such calendar year.

7. Nothing herein contained shall be deemed to prevent the Contractor from receiving garbage for disposal at the said Sanitary Landfill Site in addition to that undertaken to be received by the Contractor pursuant to the provisions of this agreement.

8. In this contract "Engineer" or "City Engineer" shall mean the person, or persons, for the time being filling the office of the City Engineer of the Corporation or the person or persons then acting as such, or any other person authorized by the City Engineer to act on his behalf.

9. "Garbage" as referred to in this contract shall mean and include only, rejected, abandoned or discarded household waste, either animal or vegetable, wearing apparel, waste paper, broken crockery and glassware, bottles, cans, grass cuttings, garden refuse and other such refuse matter in packages, containers or bundles.

10. This contract shall enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF the Contractor and the Corporation have affixed their corporate seals, attested to by the hands of their proper officers in that behalf, the day and year first above written.

RIDGE LANDFILL CORPORATION LIMITED

THE CORPORATION OF THE CITY OF CHATHAM

*Mayor*

*Clerk*

*Schedule A*

September 28th, 1966.

Mr. A. F. Doey,  
Doey Gravel & Construction Ltd.,  
Cedar Springs,  
Ontario.

Re: Sanitary Land Fill-Area Method  
North 53 Acres, Lot 14, Conc. 4.  
W. C. R. Harwich Township.  
East 50 acres of Lot 15, Conc. 4.  
W. C. R. Harwich.

Dear Mr. Doey,

Inspection of this site was carried out 26th September, 1966 by Mr. J. D. Heaman, Public Health Engineer of the Ontario Department of Health and by Mr. A. S. Hester, Chief Public Health Inspector for Kent County.

The inspection along with the report from Mr. David McGeorge as to the nature and porosity of the soil and level of the ground water table shows this site to be suited for use as a sanitary land fill area.

The following standards and procedures are recommended:—

- (a) Access to sanitary fill area limited to those times when an attendant is on duty. Fencing, including a locking gate to preclude entry by unauthorized persons and indiscriminate dumping. The entire operation to be kept tidy.
- (b) A prominent sign declaring in effect—"No unauthorized dumping".
- (c) A sight barrier of trees, hedge, shrubs or earth bank to be established where adjacent to road.
- (d) A perimeter buffer zone or 'green belt' 20' wide to separate operation from adjacent land.
- (e) Drainage of surface water—the entire site including the fill surface should be graded and provided with drainage facilities to minimize run off onto and into fill, to prevent erosion or washing of the fill and prevent the collection of standing water.
- (f) Modern measures for insect and rodent control to be employed.
- (g) Large items—provisions shall be made for disposal of large, heavy or bulky items which lie within the capabilities of the site, as established by the operator.
- (h) Burning—no garbage or other refuse containing garbage shall be burned. Burning of select materials may be done with the permission of the Health Unit.
- (i) Sewage solids or liquids to be excluded.
- (j) Hazardous materials—highly inflammable and corrosive substances and poisons not accepted unless special provisions are made for such disposal through the Health Unit.

(k) Variance from any of the aforementioned specifications may be granted on application to the Health Unit provided it can be shown that no nuisance or health hazards are created.

(l) A minimum of four feet of compacted earth between the water table (at spring of year) and floor of the excavation.

(m) Compaction of refuse and garbage must be effected at the end of each days fill, and after compaction each days fill to be covered with a minimum of six inches of compacted soil.

(n) A final twenty-four inches minimum of compacted soil must cover the entire fill area when completed.

It would be ideal to record the volume of (a) municipal garbage and refuse, (b) waste from industry, by actual weight, or number and size of truck loads or cubic measurement.

Free discussions re operation are invited.

Yours truly,

E. G. Brown, M.D., D.P.H.,  
Director and M.O.H.,  
Kent County Health Unit.

EGB.db.



*1st Reading*

April 4th, 1974

*2nd Reading*

*3rd Reading*

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MR. SPENCE

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*(Private Bill)*

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# **BILL Pr24**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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## **An Act respecting the City of Chatham**

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MR. SPENCE

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TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO





BILL Pr24

1974

## An Act respecting the City of Chatham

**W**HEREAS The Corporation of the City of Chatham, <sup>Preamble</sup>  
 herein called the Corporation, hereby applies for special  
 legislation in respect of the matter hereinafter set forth;  
 and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent  
 of the Legislative Assembly of the Province of Ontario,  
 enacts as follows:

1. Notwithstanding section 64 of *The Ontario Municipal* <sup>Agreement  
validated  
R.S.O. 1970,  
c. 323</sup>  
*Board Act*, by-law No. 6165 of the Corporation, set forth  
 in Schedule A hereto, passed by the council of the Cor-  
 poration on the 10th day of May, 1971, authorizing the  
 entering into of an Agreement set forth in Schedule B hereto,  
 with Ridge Landfill Corporation Limited dated the 3rd day  
 of May, 1971, providing for a sanitary land fill site for  
 the disposition of garbage by the Corporation upon the terms  
 and conditions as more particularly set out in the Agree-  
 ment for a period to expire on the 31st day of October,  
 1976, and the said Agreement, are hereby declared to be  
 valid and binding upon the Corporation and the ratepayers  
 and inhabitants thereof and upon Ridge Landfill Cor-  
 poration Limited.

2. This Act comes into force on the day it receives Royal <sup>Commence-  
ment</sup>  
 Assent.

3. This Act may be cited as *The City of Chatham Act*, <sup>Short title</sup>  
 1974.

## SCHEDULE A

BY-LAW NUMBER 6165

OF THE CORPORATION OF THE CITY OF CHATHAM

A By-law to authorize the Mayor and Clerk to execute an Agreement with Ridge Landfill Corporation Limited with regard to the provision of a disposal site for garbage received from the City of Chatham, bearing the date, May 3rd, 1971.

Finally passed the 10th day of May, A.D. 1971.

---

WHEREAS the present Agreement with Alan F. Doey for the disposal of garbage from the City of Chatham is about to expire.

AND WHEREAS a new five year Agreement between the Ridge Landfill Corporation Limited and the Corporation of the City of Chatham commencing November 1st, 1971, has been drawn up bearing the date of May 3rd, 1971.

BE IT THEREFORE ENACTED by the Municipal Council of The Corporation of the City of Chatham as follows:

That the Mayor and Clerk be and they are hereby authorized to execute, on behalf of The Corporation of the City of Chatham, an Agreement dated the 3rd day of May, 1971, with the Ridge Landfill Corporation Limited, regarding the provisions of a disposal site for garbage received from the City of Chatham.

This By-law shall come into full force and effect on the final passing thereof.

*Mayor.*

*City Clerk.*

## SCHEDULE B

THIS AGREEMENT made this 3rd day of May, A D. 1971.

BETWEEN:

RIDGE LANDFILL CORPORATION LIMITED  
hereinafter called the "Contractor",

OF THE FIRST PART,

—and—

THE CORPORATION OF THE CITY OF CHATHAM  
hereinafter called the "Corporation",

OF THE SECOND PART.

WHEREAS the Corporation has accepted the tender of the Contractor for the provision and operation of a Sanitary Landfill Site for receiving and disposing of garbage from the Corporation.

AND WHEREAS the Parties hereto have agreed to enter into these presents to more particularly set out the terms of the Agreement between them.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants herein contained, the Parties hereto hereby covenant and agree as follows:

1. The Contractor will:

- (a) Provide a Sanitary Landfill Site and do all necessary work required to be done by the Contractor to receive all garbage from within the City limits of the Corporation in accordance with the specifications, instructions and regulations contained herein, and the Contractor will provide at his own expense all and every kind of labour, vehicles, tools, equipment, articles and things necessary for the due execution of the said work.
- (b) At all times operate the said Sanitary Landfill Site in accordance with the standards and procedures recommended by the Kent County Health Unit as set out in a letter dated September 28th, 1966 from E. G. Brown, M.D., D.P.H., Director and M.O.H., Kent County Health Unit, to Alan F. Doey, a copy of which letter is annexed hereto as Schedule "A" to this agreement, and in accordance with the following specifications:
  - (i) The Site for the prosecution of the work shall be the Northerly 53 acres of Lot 14, Concession 4, W. C. R., Township of Harwich in the County of Kent, or such other site or sites as the Corporation may from time to time approve.
  - (ii) The Contractor will at all times maintain an all weather road within his own property to allow the safe and speedy ingress and egress of vehicles.
  - (iii) The hours at the disposal site for the receiving of garbage from the Corporation shall be Monday to Friday, 8 o'clock a.m. to 5 o'clock p.m., and on Saturday, 8 o'clock a.m. to 12 o'clock noon, Eastern Standard time and Daylight

Saving time when in effect in Chatham. The disposal site will also be open to receive garbage on all holidays on which garbage is collected by the Corporation.

- (iv) The Corporation reserves the right to adjust the "open" hours at the disposal site, if in the opinion of the Engineer, it is necessary.
- (v) A suitable sign will be erected and maintained clearly marking the disposal site and the said hours for the receipt of garbage.
- (vi) The Contractor will provide lighting facilities and/or a telephone at the disposal site, if in the opinion of the Corporation they are necessary. The expense of erection, maintenance, and operation of the said facilities shall be the responsibility of the Contractor.
- (vii) In addition to garbage delivered by the City of Chatham garbage collectors, the Contractor will receive and dispose of the contents of one (1) truck each, daily, from Contractors, Commercial establishments, individual citizens, and industries having an address within the limits of the Corporation, provided the load does not exceed 15 cubic yards of loose material or 4 cubic yards of mechanically compacted material.
- (c) Assume the defence of and indemnify and save harmless the Corporation and its officers and agents from all claims relating to labour, materials and equipment furnished for the work, and to inventions, patents or patent rights used in doing the work. The Contractor shall be responsible for any and all damages or claims for damages or injuries or accidents done to or caused by him, or his employees, or relating to the performance of the work, or any of his operations, or caused by reason of the existence or location or condition of any materials, plant, or machinery used thereon or therein, or which may happen by reason thereof, or arising from any failure, neglect or omission on his part, or on the part of any of his employees, to do or perform any or all of the several acts or things required to be done by him or them under and by these conditions, and covenants, and agrees to hold the Corporation harmless and indemnified from all such damages and claims for damages.
- (d) Together with a guarantee company (approved by the City) resident in Canada or authorized by law to carry on business in Canada, provide annually a one hundred percent (100%) bond for the due performance of this contract by the Contractor.

The said bond shall be deposited with the Clerk of the Corporation. The expense of obtaining the said bond shall be borne by the Contractor.

- (e) Obtain insurance in the amount of \$100,000.00 from an insurance company authorized to carry on business in Canada to cover its public liability and property damage liability under this contract.
- (f) At all times pay or cause to be paid, any assessment or compensation required to be paid pursuant to *The Workmen's Compensation Act*, and, upon failure to do so, the Corporation may pay such assessment or compensation to the Workmen's Com-



pensation Board and deduct the amount of such payment from the monies payable to the Contractor by the Corporation as hereinafter set out. The Contractor will, at any time during the performance or upon completion of the contract, at the request of the Corporation, obtain from the workmen's Compensation Board a certificate that all assessments or compensations payable to the Board have been paid.

- (g) Keep the work under his personal control, and shall not assign, transfer or sublet this contract or any portion thereof without first obtaining the consent of the Corporation, provided however, that the Contractor is hereby permitted to assign this contract to a private corporation of which he shall be the principal shareholder. The consent of the Corporation to any such assignment, transfer, or subletting, shall not however, relieve the Contractor of any responsibility for the proper commencement, execution and completion of the work according to the terms of this contract and the Contractor shall, either in person or through an accredited agent receive all notices, communications, orders, instructions or legal services as if he were performing the work with his own plant and his own men.

2 Should any overseer, mechanic, driver, or workman employed on or about the work or in connection therewith, give any just cause for complaint, the Corporation shall notify the Contractor in writing, stating the reasons therefor, and the Contractor shall dismiss such person forthwith, and he shall not again be employed by the Contractor in the performance of the work without the consent, in writing, of the City Engineer.

3 If the Contractor neglects or fails to commence operation on the date specified, or if he shall become bankrupt or insolvent, or compound with his creditors, or commit any act of insolvency, or shall transfer, assign or sublet or attempt to transfer, assign, or sublet this contract, or any part thereof without the consent of the Corporation, or if at any time the work or any part thereof is, in the judgment of the Engineer, not executed or not being executed, in a sound or workmanlike manner to his satisfaction and in all respects in strict conformity with the contract, or to comply with any reasonable order he may receive from the Engineer, or if the Contractor shall persist in any course in violation of any of the provisions of this contract, then, in each and every case, after twenty-four (24) hours written notice from the Corporation to the Contractor, the Corporation shall have the full right and power, at its discretion, without process or action at law, to take over the operation of the Sanitary Landfill Site for the purposes of this contract, or any part or parts thereof, as specified in the said notice, out of the hands of the Contractor and the Contractor upon receiving notice to that effect, shall vacate possession and give up said operation, or the part or parts thereof specified in the said notice, peaceably to the Corporation, which may either relet the same to any other person or persons, with or without its previously being advertised or may employ workmen and provide the necessary plant at the expense of the Contractor, or may take such other steps as it may consider necessary or advisable in order to secure the completion of the said contract to its satisfaction and the Contractor and his surety in every case shall be liable for all damages, expenditures, and extra expenditures and for all additional costs of the work which may be incurred by reason thereof.

4 Any notice or communication to the Contractor shall be deemed to be well and sufficiently given and served if handed to the Contractor or any of his clerks or agents or if posted or sent to the Contractor at Cedar Springs, Ontario. In any written notice to the Contractor in respect of any work required to be done under any of the provisions of this contract or of any other matter, it shall not be obligatory upon the Engineer to specify



minutely or in detail everything required, nor to specify by measurement the exact extent thereof, or the precise spot or spots where the work may be defective or faulty, or where any of the requirements of the contract have not been observed, but a reference in such notice to the clause or clauses bearing upon the matter, and a description of the locality in general terms and sufficiently clear, in the opinion of the Engineer, to indicate where the defect or trouble exists, shall be deemed to be, and shall be ample notice.

5. The term of this contract will be five consecutive years, commencing on the first day of November, 1971; negotiations for an extension of the term may be conducted at any time during the year 1976.

6. The Corporation will:

- (a) And it does hereby approve the site provided by the Contractor for the operation of a Sanitary Landfill, composed of the Northerly 53 acres of Lot 14, Concession 4, W.C.R. in the Township of Harwich, in the County of Kent and Province of Ontario.
- (b) Pay to the Contractor monthly in arrears not later than the 15th day of the following month, one-twelfth of the annual contract price. The annual contract price shall be calculated, for each calendar year, or part thereof, during which the term of this contract extends, at the rate of one dollar and ten cents (\$1.10) per capita of the Corporation's population as established by the Corporation's current revised assessment roll on the first day of January in each such calendar year.

7. Nothing herein contained shall be deemed to prevent the Contractor from receiving garbage for disposal at the said Sanitary Landfill Site in addition to that undertaken to be received by the Contractor pursuant to the provisions of this agreement.

8. In this contract "Engineer" or "City Engineer" shall mean the person, or persons, for the time being filling the office of the City Engineer of the Corporation or the person or persons then acting as such, or any other person authorized by the City Engineer to act on his behalf.

9. "Garbage" as referred to in this contract shall mean and include only, rejected, abandoned or discarded household waste, either animal or vegetable, wearing apparel, waste paper, broken crockery and glassware, bottles, cans, grass cuttings, garden refuse and other such refuse matter in packages, containers or bundles.

10. This contract shall enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF the Contractor and the Corporation have affixed their corporate seals, attested to by the hands of their proper officers in that behalf, the day and year first above written.

RIDGE LANDFILL CORPORATION LIMITED

THE CORPORATION OF THE CITY OF CHATHAM

*Mayor*

*Clerk*

## Schedule A

September 28th, 1966.

Mr. A. F. Doey,  
Doey Gravel & Construction Ltd.,  
Cedar Springs,  
Ontario.

Re: Sanitary Land Fill-Area Method  
North 53 Acres, Lot 14, Conc. 4.  
W.C.R. Harwich Township.  
East 50 acres of Lot 15, Conc. 4.  
W.C.R. Harwich.

Dear Mr. Doey,

Inspection of this site was carried out 26th September, 1966 by Mr. J. D. Heaman, Public Health Engineer of the Ontario Department of Health and by Mr. A. S. Hester, Chief Public Health Inspector for Kent County.

The inspection along with the report from Mr. David McGeorge as to the nature and porosity of the soil and level of the ground water table shows this site to be suited for use as a sanitary land fill area.

The following standards and procedures are recommended:—

- (a) Access to sanitary fill area limited to those times when an attendant is on duty. Fencing, including a locking gate to preclude entry by unauthorized persons and indiscriminate dumping. The entire operation to be kept tidy.
- (b) A prominent sign declaring in effect—"No unauthorized dumping"
- (c) A sight barrier of trees, hedge, shrubs or earth bank to be established where adjacent to road.
- (d) A perimeter buffer zone or 'green belt' 20' wide to separate operation from adjacent land.
- (e) Drainage of surface water—the entire site including the fill surface should be graded and provided with drainage facilities to minimize run off onto and into fill, to prevent erosion or washing of the fill and prevent the collection of standing water.
- (f) Modern measures for insect and rodent control to be employed.
- (g) Large items—provisions shall be made for disposal of large, heavy or bulky items which lie within the capabilities of the site, as established by the operator.
- (h) Burning—no garbage or other refuse containing garbage shall be burned. Burning of select materials may be done with the permission of the Health Unit.
- (i) Sewage solids or liquids to be excluded.
- (j) Hazardous materials—highly inflammable and corrosive substances and poisons not accepted unless special provisions are made for such disposal through the Health Unit.

(k) Variance from any of the aforementioned specifications may be granted on application to the Health Unit provided it can be shown that no nuisance or health hazards are created.

(l) A minimum of four feet of compacted earth between the water table (at spring of year) and floor of the excavation.

(m) Compaction of refuse and garbage must be effected at the end of each days fill, and after compaction each days fill to be covered with a minimum of six inches of compacted soil.

(n) A final twenty-four inches minimum of compacted soil must cover the entire fill area when completed.

It would be ideal to record the volume of (a) municipal garbage and refuse, (b) waste from industry, by actual weight, or number and size of truck loads or cubic measurement.

Free discussions re operation are invited.

Yours truly,

E. G. Brown, M.D., D.P.H.,  
Director and M.O.H.,  
Kent County Health Unit.

EGB.db.



---

*1st Reading*

April 4th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. SPENCE

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

---

**An Act respecting  
Savings and Investment Trust**

---

MR. MORROW

---



BILL Pr25

1974

## An Act respecting Savings and Investment Trust

**W**HEREAS Savings and Investment Trust, hereinafter Preamble  
called the Company, hereby represents that, by a  
Special Act of the National Assembly of the Province of  
Quebec which came into force on the 1st day of January,  
1974, the Company was constituted under the name of  
"Fiducie de Pret et Revenu", in French, and in English  
"Savings and Investment Trust", by the amalgamation of  
Savings and Investment Trust, hereinafter called the Trust,  
a corporation incorporated under the laws of the Province  
of Quebec by letters patent dated the 6th day of October,  
1960, and Savings and Investment Ltd., hereinafter called  
the Corporation, a corporation incorporated by a Special  
Act of the National Assembly of the Province of Quebec,  
being Chapter 137 of the Statutes of the Province of  
Quebec 1966-67; that prior to the 1st day of January,  
1974, the Corporation was registered as an issuer under  
*The Investment Contracts Act* and the Company desires to  
terminate such registration; that prior to the 1st day of  
January, 1974, the Trust was registered as a trust company  
under *The Loan and Trust Corporations Act* and the  
Company desires to continue such registration; and whereas  
the Company hereby applies for special legislation for such  
purposes; and whereas it is expedient to grant the appli-  
cation;

R.S.O. 1970,  
cc. 226, 254

Therefore, Her Majesty, by and with the advice and  
consent of the Legislative Assembly of the Province of  
Ontario, enacts as follows:

1. The Royal Assent to this Act shall be deemed the Assent to  
amalgama-  
tion  
assent of the Lieutenant Governor in Council to the  
amalgamation of the Trust and the Corporation under  
subsections 2 and 3 of section 110 of *The Loan and  
Trust Corporations Act*.

2. The Minister of Consumer and Commercial Relations Certificate  
shall issue a certificate under his hand and seal certifying

the assent of the Lieutenant Governor in Council and declaring the amalgamation of the Trust and the Corporation effective the 1st day of January, 1974, and the name of the Company together with such other matters, if any, as appear to him necessary or desirable in the public interest and such certificate shall be deemed to have been issued under subsection 1 of section 111 of *The Loan and Trust Corporations Act*.

R.S.O. 1970,  
c. 254

Registration  
terminated  
R.S.O. 1970,  
c. 226

**3.** The registration of the Corporation as an issuer under *The Investment Contracts Act* is terminated.

Company  
registered  
under  
R.S.O. 1970,  
c. 254

**4.** The Company is eligible for registration and is registered as a trust company under *The Loan and Trust Corporations Act* and shall be subject to all the provisions of the Act and regulations issued thereunder in so far as they are applicable to a registered trust company which is not a provincial trust company.

Commence-  
ment

**5.** This Act shall be deemed to have come into force on the 1st day of January, 1974.

Short title

**6.** This Act may be cited as *The Savings and Investment Trust Act, 1974*.









An Act respecting  
Savings and Investment Trust

---

*1st Reading*

April 8th, 1974

*2nd Reading*

*3rd Reading*

---

MR. MORROW

---

*(Private Bill)*

---

# **BILL Pr25**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

---

## **An Act respecting Savings and Investment Trust**

---

MR. MORROW

---

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO





BILL Pr25

1974

## An Act respecting Savings and Investment Trust

**W**HEREAS Savings and Investment Trust, hereinafter Preamble  
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Savings and Investment Trust, hereinafter called the Trust,  
a corporation incorporated under the laws of the Province  
of Quebec by letters patent dated the 6th day of October,  
1960, and Savings and Investment Ltd., hereinafter called  
the Corporation, a corporation incorporated by a Special  
Act of the National Assembly of the Province of Quebec,  
being Chapter 137 of the Statutes of the Province of  
Quebec 1966-67; that prior to the 1st day of January,  
1974, the Corporation was registered as an issuer under  
*The Investment Contracts Act* and the Company desires to  
terminate such registration; that prior to the 1st day of  
January, 1974, the Trust was registered as a trust company  
under *The Loan and Trust Corporations Act* and the  
Company desires to continue such registration; and whereas  
the Company hereby applies for special legislation for such  
purposes; and whereas it is expedient to grant the appli-  
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cc. 226, 254

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shall issue a certificate under his hand and seal certifying

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Registration  
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R.S.O. 1970,  
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c. 254

**4.** The Company is eligible for registration and is registered as a trust company under *The Loan and Trust Corporations Act* and shall be subject to all the provisions of the Act and regulations issued thereunder in so far as they are applicable to a registered trust company which is not a provincial trust company.

Commence-  
ment

**5.** This Act shall be deemed to have come into force on the 1st day of January, 1974.

Short title

**6.** This Act may be cited as *The Savings and Investment Trust Act, 1974*.







An Act respecting  
Savings and Investment Trust

---

*1st Reading*

April 8th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. MORROW

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

---

**An Act respecting Lake of the Woods District Hospital**

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**MR. MAECK**

---



BILL Pr26

1974

## An Act respecting Lake of the Woods District Hospital

**W**HEREAS The Board of Directors of Lake of the Woods District Hospital, herein called the Board, hereby represents that it is desirable to amend *The Lake of the Woods District Hospital Act, 1968*, to provide for an increase in the number of appointed directors on the Board from four to seven; and whereas the Board hereby applies for special legislation for such purpose; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *b* of subsection 2 of section 2 of *The Lake of the Woods District Hospital Act, 1968*, being chapter 156, is amended by striking out "four" in the first line and inserting in lieu thereof "seven". Preamble  
1968, c. 156  
s. 2 (2) (b),  
amended

2.—(1) Section 4 of the said Act is amended by striking out "four" in the first line and inserting in lieu thereof "seven". s. 4,  
amended

(2) The said section 4 is further amended by adding thereto the following clauses: s. 4,  
amended

(e) one shall be appointed annually by the Board of Trustees of the Improvement District of Sioux Narrows and shall be a member of the said board of trustees;

(f) two Indian persons shall be appointed annually by the Board by resolution of the councils of the Indian Bands of the area served by the Corporation.

3. This Act comes into force on the day it receives Royal Assent. Commence-  
ment

4. This Act may be cited as *The Lake of the Woods District Hospital Act, 1974*. Short title

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*1st Reading*

*2nd Reading*

*3rd Reading*

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MR. MAECK

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*(Private Bill)*

# **BILL Pr26**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act respecting Lake of the Woods District Hospital**

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**MR. MAECK**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**





ILL Pr26

1974

## An Act respecting Lake of the Woods District Hospital

**WHEREAS** The Board of Directors of Lake of the Woods District Hospital, herein called the Board, hereby represents that it is desirable to amend *The Lake of the Woods District Hospital Act, 1968*, to provide for an increase in the number of appointed directors on the Board from four to seven; and whereas the Board hereby applies for special legislation for such purpose; and whereas it is expedient to grant the application;

Preamble

1968, c. 156

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *b* of subsection 2 of section 2 of *The Lake of the Woods District Hospital Act, 1968*, being chapter 156, is amended by striking out "four" in the first line and inserting in lieu thereof "seven".

s. 2 (2) (b).  
amended

2.—(1) Section 4 of the said Act is amended by striking out "four" in the first line and inserting in lieu thereof "seven".

s. 4.  
amended

(2) The said section 4 is further amended by adding thereto the following clauses:

s. 4.  
amended

(e) one shall be appointed annually by the Board of Trustees of the Improvement District of Sioux Narrows and shall be a member of the said board of trustees;

(f) two Indian persons shall be appointed annually by the Board by resolution of the councils of the Indian Bands of the area served by the Corporation.

3. This Act comes into force on the day it receives Royal Assent.

Commence-  
ment

4. This Act may be cited as *The Lake of the Woods District Hospital Act, 1974*.

Short title

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*1st Reading*

April 5th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. MAECK

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

---

**An Act respecting the Town of Oakville**

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**MR. KENNEDY**

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Received of the Hon. Secy. of the Interior  
for the sum of \$100.00

for the sum of \$100.00

1872-73

BILL Pr27

1974

## An Act respecting the Town of Oakville

**W**HEREAS The Corporation of the Town of Oakville, <sup>Preamble</sup>  
 herein called the Corporation, hereby applies for special  
 legislation in respect of the matters hereinafter set forth;  
 and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and  
 consent of the Legislative Assembly of the Province of  
 Ontario, enacts as follows:

1. The council of the Corporation may pass by-laws <sup>Pedestrian  
promenade,  
Lakeshore  
Road</sup>  
 for establishing that part of Lakeshore Road in the Town  
 of Oakville between the westerly limit of Allan Street and  
 the easterly limit of Navy Street or any part or parts  
 thereof solely or principally as a pedestrian promenade for  
 such period or periods between the 15th day of June and  
 the 15th day of September in the year 1974 as the council  
 may determine, and for prohibiting the use thereof by  
 vehicles or any class thereof except to such extent and for  
 such period or periods as may be specified and for per-  
 mitting the use of the said part or parts of Lakeshore  
 Road and the obstruction thereof by such persons and in  
 such manner and to such extent as the council may  
 consider desirable.

2. Notwithstanding the provisions of any general or <sup>Right to  
damages by  
reason of  
creation of  
promenade</sup>  
 special Act, no person shall be entitled to recover any  
 damages or compensation from the Corporation for loss  
 of business or for loss of access to or from Lakeshore  
 Road arising from the exercise by the council of its  
 powers under this Act.

3. The council of the Corporation may pass by-laws for, <sup>Injuring or  
destroying  
trees  
prohibited  
except with  
consent of  
council</sup>  
 (a) prohibiting the injuring of trees;  
 (b) prohibiting the destruction of trees of kinds and  
 sizes specified in the by-law except with the  
 consent of the Corporation, such consent not to be



refused if the effect of the refusal would be to deny the owner the right to use his land for any building, structure, highway, sanitary sewer, storm sewer, watermain, or electrical distribution system for the construction of which all requisite governmental approvals have been obtained.

Exception

4. A by-law passed pursuant to section 3 does not interfere with any rights or powers of Ontario Hydro or of any board or commission that is performing its functions for or on behalf of the Government of Ontario.

Penalties  
and  
enforcement  
R.S.O. 1970,  
c. 284  
Commence-  
ment

5. Part XXI of *The Municipal Act* applies to any by-law passed under section 3.

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. This Act may be cited as *The Town of Oakville Act, 1974*.









---

*1st Reading*

April 4th, 1974

*2nd Reading*

*3rd Reading*

---

MR. KENNEDY

---

*(Private Bill)*

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

---

**An Act respecting the Town of Oakville**

---

**MR. KENNEDY**

---

*(Reprinted as amended by the Private Bills Committee)*





BILL Pr27



1974

## An Act respecting the Town of Oakville

**W**HEREAS The Corporation of the Town of Oakville, <sup>Preamble</sup>  
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Lakeshore  
Road</sup>  
 for establishing that part of Lakeshore Road in the Town  
 of Oakville between the westerly limit of Allan Street and  
 the easterly limit of Navy Street or any part or parts  
 thereof solely or principally as a pedestrian promenade for  
 such period or periods between the 15th day of June and  
 the 15th day of September in the year 1974 as the council  
 may determine, and for prohibiting the use thereof by  
 vehicles or any class thereof except to such extent and for  
 such period or periods as may be specified and for per-  
 mitting the use of the said part or parts of Lakeshore  
 Road and the obstruction thereof by such persons and in  
 such manner and to such extent as the council may  
 consider desirable.

 (2) No by-law passed under subsection 1 shall come into <sup>Approval</sup>  
 force without the approval of the Minister of Transportation  
 and Communications. 

2. The council of the Corporation may pass by-laws for, <sup>Injuring or  
destroying  
trees  
prohibited  
except with  
consent of  
council</sup>
- (a) prohibiting the injuring of trees;
  - (b) prohibiting the destruction of trees of kinds and  
 sizes specified in the by-law except with the  
 consent of the Corporation, such consent not to be

refused if the effect of the refusal would be to deny the owner the right to use his land for any building, structure, highway, sanitary sewer, storm sewer, watermain, or electrical distribution system for the construction of which all requisite governmental approvals have been obtained.

**Exception**

**3.** A by-law passed pursuant to section 2 does not interfere with any rights or powers of Ontario Hydro or of any board or commission that is performing its functions for or on behalf of the Government of Ontario or of The Regional Municipality of Halton.

**Penalties and enforcement**  
R.S.O. 1970,  
c. 284

**4.** Part XXI of *The Municipal Act* applies to any by-law passed under section 2.

**Commence-  
ment**

**5.** This Act comes into force on the day it receives Royal Assent.

**Short title**

**6.** This Act may be cited as *The Town of Oakville Act, 1974.*







*1st Reading*

April 4th, 1974

*2nd Reading*

*3rd Reading*

---

MR. KENNEDY

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*(Reprinted as amended by the  
Private Bills Committee)*

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# **BILL Pr27**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

---

## **An Act respecting the Town of Oakville**

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**MR. KENNEDY**

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**TORONTO**

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1871

**BILL Pr27 1974****An Act respecting the Town of Oakville**

**W**HEREAS The Corporation of the Town of Oakville, <sup>Preamble</sup>  
 herein called the Corporation, hereby applies for special  
 legislation in respect of the matters hereinafter set forth;  
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Therefore, Her Majesty, by and with the advice and  
 consent of the Legislative Assembly of the Province of  
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1.—(1) The council of the Corporation may pass by-laws <sup>Pedestrian  
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 thereof solely or principally as a pedestrian promenade for  
 such period or periods between the 15th day of June and  
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 may determine, and for prohibiting the use thereof by  
 vehicles or any class thereof except to such extent and for  
 such period or periods as may be specified and for per-  
 mitting the use of the said part or parts of Lakeshore  
 Road and the obstruction thereof by such persons and in  
 such manner and to such extent as the council may  
 consider desirable.

(2) No by-law passed under subsection 1 shall come into <sup>Approval</sup>  
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 and Communications.

2. The council of the Corporation may pass by-laws for, <sup>Injuring or  
destroying  
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except with  
consent of  
council</sup>

(a) prohibiting the injuring of trees;

(b) prohibiting the destruction of trees of kinds and  
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 consent of the Corporation, such consent not to be

refused if the effect of the refusal would be to deny the owner the right to use his land for any building, structure, highway, sanitary sewer, storm sewer, watermain, or electrical distribution system for the construction of which all requisite governmental approvals have been obtained.

**Exception**

**3.** A by-law passed pursuant to section 2 does not interfere with any rights or powers of Ontario Hydro or of any board or commission that is performing its functions for or on behalf of the Government of Ontario or of The Regional Municipality of Halton.

**Penalties  
and  
enforcement**  
R.S.O. 1970,  
c. 284

**4.** Part XXI of *The Municipal Act* applies to any by-law passed under section 2.

**Commence-  
ment**

**5.** This Act comes into force on the day it receives Royal Assent.

**Short title**

**6.** This Act may be cited as *The Town of Oakville Act, 1974*.









---

*1st Reading*

April 4th, 1974

*2nd Reading*

May 7th, 1974

*3rd Reading*

May 7th, 1974

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MR. KENNEDY

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act respecting The Presbyterian  
Church Building Corporation**

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**MR. DYMOND**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**



BILL Pr28

1974

## An Act respecting The Presbyterian Church Building Corporation

**W**HEREAS The Presbyterian Church Building Corpora-<sup>Preamble</sup>  
tion, herein called the Company, hereby represents that  
it was incorporated on the 4th day of May, 1968, as a  
private company under the provisions of Part II of the  
*Corporations Act* (Canada); that the nature of the work to be  
undertaken by it is charitable and not for the purposes of  
private gain or profit, namely to assist in the advance-<sup>R.S.C. 1970,  
c. C-32</sup>  
ment of religion and education, the relief of poverty and  
other charitable activities of The Presbyterian Church in  
Canada, within Canada, and to undertake and assist in the  
financing, and to guarantee repayment of money lent to  
finance or assist in the financing of the acquisition of lands  
and buildings and all accessory structures and facilities for  
The Presbyterian Church in Canada; that the operations  
of the Company are intended to replace the operations of:

The Corporation of the Presbytery of Ottawa of The  
Presbyterian Church in Canada,

The Corporation of the Synod of Toronto and Kingston  
of The Presbyterian Church in Canada, and

The Corporation of the Synod of Hamilton and London  
of The Presbyterian Church in Canada,

herein called the Corporations, carried on for the same or  
similar objects; that the Corporations desire that the whole  
of their undertaking, including all of their assets and  
liabilities be transferred to the Company; that the Corporations  
desire to be dissolved; that The Trustee Board of The  
Presbyterian Church in Canada with the concurrence of the  
General Assembly of The Presbyterian Church in Canada  
desires that all the assets of the Corporations be trans-  
ferred to the Company; and whereas, the Company hereby  
applies for special legislation to effect such purposes; and  
whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Vesting of  
property in  
the Company

**1.—(1)** All property, real and personal, and the undertaking and assets, with all the rights, powers and privileges and immunities vested in, owned, held, possessed or enjoyed by the Corporations are hereby vested in the Company without the necessity of any further or other grant, conveyance, transfer, assignment or vesting thereof subject to the provisions of this Act, and the Company hereby becomes and is responsible for all debts, liabilities and obligations of the Corporations.

Vesting  
of gifts,  
devises, etc.,  
in Company

**(2)** Without limiting the generality of subsection 1, all gifts, devises, deeds, conveyances, transfers and leases of any real property or of any interest therein and all gifts, bequests, assignments, loans and transfers of any personal property or of any interest therein, which have been or shall hereafter be made or intended for the Corporations or any of them are hereby vested in the Company as fully and effectually as if such gift, devise, deed, conveyance, transfer, lease, loan, bequest or assignment had been made to the Company, but any property, real or personal, relating to or vested in the Corporations or any of them for any special purposes or trusts shall be held by the Company for such purposes and trusts and with, under and subject to the same powers, obligations and provisions as are in force or declared under any statute, deed or other instrument affecting such property respectively, and any property, real or personal, hereafter given, devised, bequeathed, assigned or transferred to or intended for the Corporations or any of them shall vest in the Company and shall be held for the purposes and trusts and with, under and subject to the powers, obligations and provisions as are declared under any statute, deed or other instrument affecting such property respectively, and the Corporations and each one of them are hereby relieved of any liability in respect of such property under any such statute, deed or other instrument.

Corporations  
dissolved

**2.** The Corporations are hereby dissolved, except so far as is necessary to give full effect to this Act.

Repeals

**3.** The following are repealed:

1. *The Corporation of the Synod of Toronto and Kingston of The Presbyterian Church in Canada Act, 1958*, being chapter 131.



2. *The Corporation of the Synod of Hamilton and London of The Presbyterian Church in Canada Act, 1959*, being chapter 114.

3. *The Corporation of the Presbytery of Ottawa of The Presbyterian Church in Canada Act, 1960*, being chapter 139.

4. This Act comes into force on the day it receives Royal <sup>Commence-</sup> Assent. <sub>ment</sub>

5. This Act may be cited as *The Presbyterian Church* <sup>Short title</sup> *Building Corporation Act, 1974*.





An Act respecting  
The Presbyterian Church Building  
Corporation

---

*1st Reading*

April 4th, 1974

*2nd Reading*

*3rd Reading*

---

MR. DYMOND

---

*(Private Bill)*

# **BILL Pr28**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act respecting The Presbyterian Church Building Corporation**

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**MR. DYMOND**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**





BILL Pr28

1974

## An Act respecting The Presbyterian Church Building Corporation

**W**HEREAS The Presbyterian Church Building Corpora-<sup>Preamble</sup>  
tion, herein called the Company, hereby represents that  
it was incorporated on the 4th day of May, 1968, as a  
private company under the provisions of Part II of the  
*Corporations Act* (Canada); that the nature of the work to be  
undertaken by it is charitable and not for the purposes of  
private gain or profit, namely to assist in the advance-<sup>R.S.C. 1970,  
c. C-32</sup>  
ment of religion and education, the relief of poverty and  
other charitable activities of The Presbyterian Church in  
Canada, within Canada, and to undertake and assist in the  
financing, and to guarantee repayment of money lent to  
finance or assist in the financing of the acquisition of lands  
and buildings and all accessory structures and facilities for  
The Presbyterian Church in Canada; that the operations  
of the Company are intended to replace the operations of:

The Corporation of the Presbytery of Ottawa of The  
Presbyterian Church in Canada,

The Corporation of the Synod of Toronto and Kingston  
of The Presbyterian Church in Canada, and

The Corporation of the Synod of Hamilton and London  
of The Presbyterian Church in Canada,

herein called the Corporations, carried on for the same or  
similar objects; that the Corporations desire that the whole  
of their undertaking, including all of their assets and  
liabilities be transferred to the Company; that the Corporations  
desire to be dissolved; that The Trustee Board of The  
Presbyterian Church in Canada with the concurrence of the  
General Assembly of The Presbyterian Church in Canada  
desires that all the assets of the Corporations be trans-  
ferred to the Company; and whereas, the Company hereby  
applies for special legislation to effect such purposes; and  
whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Vesting of  
property in  
the Company

**1.**—(1) All property, real and personal, and the undertaking and assets, with all the rights, powers and privileges and immunities vested in, owned, held, possessed or enjoyed by the Corporations are hereby vested in the Company without the necessity of any further or other grant, conveyance, transfer, assignment or vesting thereof subject to the provisions of this Act, and the Company hereby becomes and is responsible for all debts, liabilities and obligations of the Corporations.

Vesting  
of gifts,  
devises, etc.,  
in Company

(2) Without limiting the generality of subsection 1, all gifts, devises, deeds, conveyances, transfers and leases of any real property or of any interest therein and all gifts, bequests, assignments, loans and transfers of any personal property or of any interest therein, which have been or shall hereafter be made or intended for the Corporations or any of them are hereby vested in the Company as fully and effectually as if such gift, devise, deed, conveyance, transfer, lease, loan, bequest or assignment had been made to the Company, but any property, real or personal, relating to or vested in the Corporations or any of them for any special purposes or trusts shall be held by the Company for such purposes and trusts and with, under and subject to the same powers, obligations and provisions as are in force or declared under any statute, deed or other instrument affecting such property respectively, and any property, real or personal, hereafter given, devised, bequeathed, assigned or transferred to or intended for the Corporations or any of them shall vest in the Company and shall be held for the purposes and trusts and with, under and subject to the powers, obligations and provisions as are declared under any statute, deed or other instrument affecting such property respectively, and the Corporations and each one of them are hereby relieved of any liability in respect of such property under any such statute, deed or other instrument.

Corporations  
dissolved

**2.** The Corporations are hereby dissolved, except so far as is necessary to give full effect to this Act.

Repeals

**3.** The following are repealed:

1. *The Corporation of the Synod of Toronto and Kingston of The Presbyterian Church in Canada Act, 1958*, being chapter 131.

2. *The Corporation of the Synod of Hamilton and London of The Presbyterian Church in Canada Act, 1959*, being chapter 114.

3. *The Corporation of the Presbytery of Ottawa of The Presbyterian Church in Canada Act, 1960*, being chapter 139.

4. This Act comes into force on the day it receives Royal <sup>Commence-</sup> Assent. <sup>ment</sup>

5. This Act may be cited as *The Presbyterian Church* <sup>Short title</sup> *Building Corporation Act, 1974*.





An Act respecting  
The Presbyterian Church Building  
Corporation

---

*1st Reading*

April 4th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. DYMOND

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting the City of Windsor**

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**MR. NEWMAN (Windsor-Walkerville)**

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BILL Pr29

1974

## An Act respecting the City of Windsor

**W**HEREAS The Corporation of the City of Windsor, herein <sup>Preamble</sup>  
 called the Corporation, hereby applies for special legis-  
 lation in respect of the matters hereinafter set forth; and  
 whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent  
 of the Legislative Assembly of the Province of Ontario, enacts  
 as follows:

1.--(1) In this section,

<sup>Interpre-</sup>  
<sup>tation</sup>

- (a) "designated fire route" means a fire route designated by by-law of the Corporation;
- (b) "fire route" means any road, lane, ramp or other means of vehicular access to or egress from a building or structure and it may include part of a parking lot;
- (c) "park" or "parking", when prohibited, means the standing of a vehicle, whether occupied or not, except when standing temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers;
- (d) "stop" or "stopping", when prohibited, means the halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a constable or other police officer or of a traffic control sign or signal;
- (e) "trailer" means a vehicle that is at any time drawn upon a highway by a motor vehicle, except an implement of husbandry, another motor vehicle or any device or apparatus not designed to transport persons or property temporarily drawn, propelled or moved upon such highway, and except a side car

attached to a motorcycle, and shall be considered a separate vehicle and not part of the motor vehicle by which it is drawn;

- (f) "vehicle" includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include the car of an electric or steam railway running only upon rails.

Powers to  
pass by-laws  
re fire  
routes  
R.S.O. 1970,  
c. 284

(2) Notwithstanding paragraph 112 of subsection 1 of section 354 of *The Municipal Act*, the council of the Corporation may pass by-laws for,

- (a) regulating and designating fire routes and without limiting the generality of the foregoing, the by-laws may include the following,
  - (i) the dimensions, location, construction and maintenance standards of a fire route or of a designated fire route,
  - (ii) the location, the number and proximity to a building or structure of water hydrants,
  - (iii) the Building Inspector of the Corporation shall refuse to issue a building permit for any building or structure where the plan filed with the building permit application does not show the proposed location of a fire route, where such is required, or where the said plan shows a proposed fire route which is not in conformity with the by-laws passed pursuant to this subsection,
  - (iv) the filing of security of such nature and amount as the Corporation may determine to ensure the proper construction of a fire route in accordance with the by-laws passed pursuant to this subsection, before any building permit referred to in the preceding subclause is issued,
  - (v) the return or release of the security, referred to in the preceding subclause, in part or in whole, as set forth in the by-laws passed pursuant to this subsection,
  - (vi) requiring existing fire routes, which do not comply with the provisions of the by-laws passed pursuant to this subsection, to comply,



and for establishing a time limit within which said fire routes are required to so comply, or where there is a requirement for a fire route to an existing building or structure, it shall be constructed within the period established in the by-laws passed pursuant to this subsection;

- (b) diverting, altering or stopping up, for a period or permanently, designated fire routes;
- (c) regulating and governing traffic on designated fire routes;
- (d) prohibiting the parking or leaving of a vehicle or trailer unattended on a designated fire route or on any classes thereof and providing for the removal and impounding of any vehicle or trailer so parked or left unattended at the expense of the owner of said vehicle or trailer;
- (e) the erecting of signs, including the right of entering on property to accomplish this, which signs may be on or adjacent to a designated fire route and shall be in accordance with the by-laws enacted pursuant to this subsection, and which signs shall be in accordance with *The Highway Traffic Act* and the regulations made thereunder, and their effect shall be the same as though erected pursuant to any by-law enacted pursuant to *The Municipal Act* respecting the regulation of traffic;
- (f) fixing the fees and charges to be paid to the Corporation for any engineering and inspection services it provides for the construction of a fire route, for designating a fire route, and for the erection of signs as aforesaid, and providing for recovery thereof in the event of non-payment, in the same manner as a by-law enacted pursuant to *The Municipal Act*;
- (g) providing a procedure for the voluntary payment of penalties out of court in cases where it is alleged that the parking or leaving of a vehicle or trailer unattended provisions have been contravened, and if payment is not made in accordance with the by-law, payment may be enforced in the same manner as a by-law enacted pursuant to *The Municipal Act*;
- (h) authorizing a peace officer, upon discovery of any vehicle or trailer parked or left unattended in contravention of the provisions of any by-law enacted

R.S.O. 1970,  
cc. 202, 284

pursuant to this subsection, to cause such vehicle or trailer to be moved or taken to and placed or stored in another location, and all costs and charges of removing and storage thereof, if any, are a lien upon the vehicle or trailer, which may be enforced in the manner provided by section 48 of *The Mechanics' Lien Act*.

R.S.O. 1970,  
c. 267

Sidewalk  
cafes,  
licencing  
of travelled  
portions of  
highways

**2.**—(1) Notwithstanding the provisions of any general or special Act, the council of the Corporation may pass by-laws,

- (a) for leasing or licensing the use of travelled portions of sidewalks on highways under the jurisdiction of the council, within those portions of the City of Windsor in which land may be used for establishing and operating restaurants, to the owners or occupants of adjoining property who operate a licensed restaurant on such property, for the purpose of establishing, maintaining and operating a sidewalk cafe adjoining such restaurant, in such manner and to such extent as council may consider desirable and upon such terms and conditions as may be agreed but not so as to unreasonably confine, impede or incommode public traffic; and
- (b) for regulating and controlling the use of such sidewalks and for prohibiting and regulating the hawking, peddling or selling of any goods, wares, merchandise or food thereon, prohibiting or regulating any display or advertising thereon, and for prohibiting or regulating the use of any public address system, sound equipment, loud speakers or similar devices thereon or on the lands adjacent thereto.

Application  
of  
R.S.O. 1970,  
c. 284, s. 466

(2) Section 466 of *The Municipal Act* shall apply to any by-law enacted pursuant to clause *b* of subsection 1.

Pedestrian  
promenades

**3.**—(1) Notwithstanding the provisions of any general or special Act, the council of the Corporation may, subject to subsection 2, pass by-laws for establishing all or any part of any highway in the City of Windsor under the jurisdiction of the council solely or principally as a pedestrian promenade and for prohibiting the use thereof by vehicles or any class thereof except to such extent or for such period or periods of every day or of any day or days of the week as may be specified in the by-law, and for permitting the obstruction of the promenade in such manner and to such extent as council may consider desirable.

Approval

(2) No by-law passed under subsection 1 and no by-law that amends any such by-law shall come into force without



the approval of the Ministry of Transportation and Communications.

(3) Notwithstanding the provisions of any general or special Act, no person shall be entitled to recover any damages or compensation from the Corporation for loss of business or loss of access to or from any highway or for any injurious affection to the land arising from the exercising by the Corporation of its powers under this section. Rights to damages by reason of creation of promenade

(4) The council of the Corporation with respect to any pedestrian promenade established under subsection 1 may pass by-laws, By-laws

- (a) prohibiting or regulating and licensing the hawking, peddling or selling of any goods, wares, merchandise or food thereon;
- (b) prohibiting or regulating and licensing the use of any public address systems, sound equipment, loud speakers or similar devices thereon or on the lands adjacent thereto;
- (c) prohibiting or regulating and licensing any display, exhibition or advertising thereon; and
- (d) prohibiting or regulating and licensing the distribution or sale of literature, pamphlets, books, play bills or advertising thereon.

(5) Section 466 of *The Municipal Act* shall apply to any by-law enacted pursuant to subsection 1 or 4. Application of R.S.O. 1970, c. 284, s. 466

4. This Act comes into force on the day it receives Royal Assent. Commencement

5. This Act may be cited as *The City of Windsor Act, 1974*. Short title

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*1st Reading*

April 4th, 1974

*2nd Reading*

*3rd Reading*

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MR. NEWMAN (Windsor-Walkerville)

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*(Private Bill)*

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting the City of Windsor**

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**MR. NEWMAN (Windsor-Walkerville)**

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*(Reprinted as amended by the Private Bills Committee)*



BILL Pr29

1974

## An Act respecting the City of Windsor

**W**HEREAS The Corporation of the City of Windsor, herein Preamble  
 called the Corporation, hereby applies for special legis-  
 lation in respect of the matters hereinafter set forth; and  
 whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent  
 of the Legislative Assembly of the Province of Ontario, enacts  
 as follows:

### 1. —(1) In this section,

Interpre-  
tation

- (a) "designated fire route" means a fire route designated by by-law of the Corporation;
- (b) "fire route" means any road, lane, ramp or other means of vehicular access to or egress from a building or structure and it may include part of a parking lot;
- (c) "park" or "parking", when prohibited, means the standing of a vehicle, whether occupied or not, except when standing temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers;
- (d) "stop" or "stopping", when prohibited, means the halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a constable or other police officer or of a traffic control sign or signal;
- (e) "trailer" means a vehicle that is at any time drawn upon a highway by a motor vehicle, except an implement of husbandry, another motor vehicle or any device or apparatus not designed to transport persons or property temporarily drawn, propelled or moved upon such highway, and except a side car



attached to a motorcycle, and shall be considered a separate vehicle and not part of the motor vehicle by which it is drawn;

- (f) "vehicle" includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include the car of an electric or steam railway running only upon rails.

Powers to  
pass by-laws  
re fire  
routes  
R.S.O. 1970,  
c. 284

(2) Notwithstanding paragraph 112 of subsection 1 of section 354 of *The Municipal Act*, the council of the Corporation may pass by-laws for,

- (a) regulating and designating fire routes and without limiting the generality of the foregoing, the by-laws may include the following,
- (i) the dimensions, location, construction and maintenance standards of a fire route or of a designated fire route,
  - (ii) the location, the number and proximity to a building or structure of water hydrants,
  - (iii) the Building Inspector of the Corporation shall refuse to issue a building permit for any building or structure where the plan filed with the building permit application does not show the proposed location of a fire route, where such is required, or where the said plan shows a proposed fire route which is not in conformity with the by-laws passed pursuant to this subsection,
  - (iv) the filing of security of such nature and amount as the Corporation may determine to ensure the proper construction of a fire route in accordance with the by-laws passed pursuant to this subsection, before any building permit referred to in the preceding subclause is issued,
  - (v) the return or release of the security, referred to in the preceding subclause, in part or in whole, as set forth in the by-laws passed pursuant to this subsection,
  - (vi) requiring existing fire routes, which do not comply with the provisions of the by-laws passed pursuant to this subsection, to comply,



and for establishing a time limit within which said fire routes are required to so comply, or where there is a requirement for a fire route to an existing building or structure, it shall be constructed within the period established in the by-laws passed pursuant to this subsection;

- (b) diverting, altering or stopping up, for a period or permanently, designated fire routes;
- (c) regulating and governing traffic on designated fire routes;
- (d) prohibiting the parking or leaving of a vehicle or trailer unattended on a designated fire route or on any classes thereof and providing for the removal and impounding of any vehicle or trailer so parked or left unattended at the expense of the owner of said vehicle or trailer;
- (e) the erecting of signs, including the right of entering on property to accomplish this, which signs may be on or adjacent to a designated fire route and shall be in accordance with the by-laws enacted pursuant to this subsection, and which signs shall be in accordance with *The Highway Traffic Act* and the regulations made thereunder, and their effect shall be the same as though erected pursuant to any by-law enacted pursuant to *The Municipal Act* respecting the regulation of traffic; R.S.O. 1970,  
cc. 202, 284
- (f) fixing the fees and charges to be paid to the Corporation for any engineering and inspection services it provides for the construction of a fire route, for designating a fire route, and for the erection of signs as aforesaid, and providing for recovery thereof in the event of non-payment, in the same manner as a by-law enacted pursuant to *The Municipal Act*;
- (g) providing a procedure for the voluntary payment of penalties out of court in cases where it is alleged that the parking or leaving of a vehicle or trailer unattended provisions have been contravened, and if payment is not made in accordance with the by-law, payment may be enforced in the same manner as a by-law enacted pursuant to *The Municipal Act*;
- (h) authorizing a peace officer, upon discovery of any vehicle or trailer parked or left unattended in contravention of the provisions of any by-law enacted

R.S.O. 1970,  
c. 267

pursuant to this subsection, to cause such vehicle or trailer to be moved or taken to and placed or stored in another location, and all costs and charges of removing and storage thereof, if any, are a lien upon the vehicle or trailer, which may be enforced in the manner provided by section 48 of *The Mechanics' Lien Act*.

Sidewalk  
cafes,  
licencing  
of travelled  
portions of  
highways

**2.**—(1) Notwithstanding the provisions of any general or special Act, the council of the Corporation may pass by-laws,

- (a) for leasing or licensing the use of travelled portions of sidewalks on highways under the jurisdiction of the council, within those portions of the City of Windsor in which land may be used for establishing and operating restaurants, to the owners or occupants of adjoining property who operate a licensed restaurant on such property, for the purpose of establishing, maintaining and operating a sidewalk cafe adjoining such restaurant, in such manner and to such extent as council may consider desirable and upon such terms and conditions as may be agreed but not so as to unreasonably confine, impede or incommode public traffic; and
- (b) for regulating and controlling the use of such sidewalks and for prohibiting and regulating the hawking, peddling or selling of any goods, wares, merchandise or food thereon, prohibiting or regulating any display or advertising thereon, and for prohibiting or regulating the use of any public address system, sound equipment, loud speakers or similar devices thereon or on the lands adjacent thereto.

Application  
of  
R.S.O. 1970,  
c. 284, s. 466

(2) Section 466 of *The Municipal Act* shall apply to any by-law enacted pursuant to clause *b* of subsection 1.

Pedestrian  
promenades

**3.**—(1) Notwithstanding the provisions of any general or special Act, the council of the Corporation may, subject to subsection 2, pass by-laws for establishing all or any part of any highway in the City of Windsor under the jurisdiction of the council solely or principally as a pedestrian promenade and for prohibiting the use thereof by vehicles or any class thereof except to such extent or for such period or periods of every day or of any day or days of the week as may be specified in the by-law, and for permitting the obstruction of the promenade in such manner and to such extent as council may consider desirable.

Approval

(2) No by-law passed under subsection 1 and no by-law that amends any such by-law shall come into force without

the approval of the Minister of Transportation and Communications.

(3) The council of the Corporation with respect to any <sup>By-laws</sup> pedestrian promenade established under subsection 1 may pass by-laws,

- (a) prohibiting or regulating and licensing the hawking, peddling or selling of any goods, wares, merchandise or food thereon;
- (b) prohibiting or regulating and licensing the use of any public address systems, sound equipment, loud speakers or similar devices thereon or on the lands adjacent thereto; and
- (c) prohibiting or regulating and licensing any display, exhibition or advertising thereon.

(4) Section 466 of *The Municipal Act* shall apply to any <sup>Application of</sup> by-law enacted pursuant to subsection 1 or 3.  
R.S.O. 1970,  
c. 284, s. 466

4. This Act comes into force on the day it receives Royal <sup>Commence-</sup> Assent.  
ment

5. This Act may be cited as *The City of Windsor Act, 1974*. <sup>Short title</sup>

*1st Reading*

April 4th, 1974

*2nd Reading*

*3rd Reading*

---

MR. NEWMAN (Windsor-Walkerville)

---

*(Reprinted as amended by the  
Private Bills Committee)*



# **BILL Pr29**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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## **An Act respecting the City of Windsor**

---

MR. NEWMAN (Windsor-Walkerville)

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TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO





## An Act respecting the City of Windsor

**W**HEREAS The Corporation of the City of Windsor, herein Preamble  
called the Corporation, hereby applies for special legis-  
lation in respect of the matters hereinafter set forth; and  
whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent  
of the Legislative Assembly of the Province of Ontario, enacts  
as follows:

### 1.—(1) In this section,

Interpre-  
tation

- (a) "designated fire route" means a fire route designated by by-law of the Corporation;
- (b) "fire route" means any road, lane, ramp or other means of vehicular access to or egress from a building or structure and it may include part of a parking lot;
- (c) "park" or "parking", when prohibited, means the standing of a vehicle, whether occupied or not, except when standing temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers;
- (d) "stop" or "stopping", when prohibited, means the halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a constable or other police officer or of a traffic control sign or signal;
- (e) "trailer" means a vehicle that is at any time drawn upon a highway by a motor vehicle, except an implement of husbandry, another motor vehicle or any device or apparatus not designed to transport persons or property temporarily drawn, propelled or moved upon such highway, and except a side car

attached to a motorcycle, and shall be considered a separate vehicle and not part of the motor vehicle by which it is drawn;

- (f) "vehicle" includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include the car of an electric or steam railway running only upon rails.

Powers to  
pass by-laws  
re fire  
routes  
R.S.O. 1970,  
c. 284

(2) Notwithstanding paragraph 112 of subsection 1 of section 354 of *The Municipal Act*, the council of the Corporation may pass by-laws for,

- (a) regulating and designating fire routes and without limiting the generality of the foregoing, the by-laws may include the following,
- (i) the dimensions, location, construction and maintenance standards of a fire route or of a designated fire route,
  - (ii) the location, the number and proximity to a building or structure of water hydrants,
  - (iii) the Building Inspector of the Corporation shall refuse to issue a building permit for any building or structure where the plan filed with the building permit application does not show the proposed location of a fire route, where such is required, or where the said plan shows a proposed fire route which is not in conformity with the by-laws passed pursuant to this subsection,
  - (iv) the filing of security of such nature and amount as the Corporation may determine to ensure the proper construction of a fire route in accordance with the by-laws passed pursuant to this subsection, before any building permit referred to in the preceding subclause is issued,
  - (v) the return or release of the security, referred to in the preceding subclause, in part or in whole, as set forth in the by-laws passed pursuant to this subsection,
  - (vi) requiring existing fire routes, which do not comply with the provisions of the by-laws passed pursuant to this subsection, to comply,

and for establishing a time limit within which said fire routes are required to so comply, or where there is a requirement for a fire route to an existing building or structure, it shall be constructed within the period established in the by-laws passed pursuant to this subsection;

(b) diverting, altering or stopping up, for a period or permanently, designated fire routes;

(c) regulating and governing traffic on designated fire routes;

(d) prohibiting the parking or leaving of a vehicle or trailer unattended on a designated fire route or on any classes thereof and providing for the removal and impounding of any vehicle or trailer so parked or left unattended at the expense of the owner of said vehicle or trailer;

(e) the erecting of signs, including the right of entering on property to accomplish this, which signs may be on or adjacent to a designated fire route and shall be in accordance with the by-laws enacted pursuant to this subsection, and which signs shall be in accordance with *The Highway Traffic Act* and the regulations made thereunder, and their effect shall be the same as though erected pursuant to any by-law enacted pursuant to *The Municipal Act* respecting the regulation of traffic;

R.S.O. 1970,  
cc. 202, 284

(f) fixing the fees and charges to be paid to the Corporation for any engineering and inspection services it provides for the construction of a fire route, for designating a fire route, and for the erection of signs as aforesaid, and providing for recovery thereof in the event of non-payment, in the same manner as a by-law enacted pursuant to *The Municipal Act*;

(g) providing a procedure for the voluntary payment of penalties out of court in cases where it is alleged that the parking or leaving of a vehicle or trailer unattended provisions have been contravened, and if payment is not made in accordance with the by-law, payment may be enforced in the same manner as a by-law enacted pursuant to *The Municipal Act*;

(h) authorizing a peace officer, upon discovery of any vehicle or trailer parked or left unattended in contravention of the provisions of any by-law enacted



pursuant to this subsection, to cause such vehicle or trailer to be moved or taken to and placed or stored in another location, and all costs and charges of removing and storage thereof, if any, are a lien upon the vehicle or trailer, which may be enforced in the manner provided by section 48 of *The Mechanics' Lien Act*.

R.S.O. 1970,  
c. 267

Sidewalk  
cafes,  
licencing  
of travelled  
portions of  
highways

**2.**—(1) Notwithstanding the provisions of any general or special Act, the council of the Corporation may pass by-laws,

- (a) for leasing or licensing the use of travelled portions of sidewalks on highways under the jurisdiction of the council, within those portions of the City of Windsor in which land may be used for establishing and operating restaurants, to the owners or occupants of adjoining property who operate a licensed restaurant on such property, for the purpose of establishing, maintaining and operating a sidewalk cafe adjoining such restaurant, in such manner and to such extent as council may consider desirable and upon such terms and conditions as may be agreed but not so as to unreasonably confine, impede or incommode public traffic; and
- (b) for regulating and controlling the use of such sidewalks and for prohibiting and regulating the hawking, peddling or selling of any goods, wares, merchandise or food thereon, prohibiting or regulating any display or advertising thereon, and for prohibiting or regulating the use of any public address system, sound equipment, loud speakers or similar devices thereon or on the lands adjacent thereto.

Application  
of  
R.S.O. 1970,  
c. 284, s. 466

(2) Section 466 of *The Municipal Act* shall apply to any by-law enacted pursuant to clause *b* of subsection 1.

Pedestrian  
promenades

**3.**—(1) Notwithstanding the provisions of any general or special Act, the council of the Corporation may, subject to subsection 2, pass by-laws for establishing all or any part of any highway in the City of Windsor under the jurisdiction of the council solely or principally as a pedestrian promenade and for prohibiting the use thereof by vehicles or any class thereof except to such extent or for such period or periods of every day or of any day or days of the week as may be specified in the by-law, and for permitting the obstruction of the promenade in such manner and to such extent as council may consider desirable.

Approval

(2) No by-law passed under subsection 1 and no by-law that amends any such by-law shall come into force without

the approval of the Minister of Transportation and Communications.

(3) The council of the Corporation with respect to any <sup>By-laws</sup> pedestrian promenade established under subsection 1 may pass by-laws.

- (a) prohibiting or regulating and licensing the hawking, peddling or selling of any goods, wares, merchandise or food thereon;
- (b) prohibiting or regulating and licensing the use of any public address systems, sound equipment, loud speakers or similar devices thereon or on the lands adjacent thereto; and
- (c) prohibiting or regulating and licensing any display, exhibition or advertising thereon.

(4) Section 466 of *The Municipal Act* shall apply to any <sup>Application of</sup> by-law enacted pursuant to subsection 1 or 3.   
 R.S.O. 1970,   
 c. 284, s. 466

4. This Act comes into force on the day it receives Royal <sup>Commence-</sup> Assent. <sup>ment</sup>

5. This Act may be cited as *The City of Windsor Act, 1974*. <sup>Short title</sup>

*1st Reading*

April 4th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. NEWMAN (Windsor-Walkerville)

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting the City of Toronto**

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**MR. WARDLE**

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**TORONTO**

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



## An Act respecting the City of Toronto

**WHEREAS** The Corporation of the City of Toronto, herein Preamble  
called the Corporation, hereby applies for special legislation  
respect of the matters hereinafter set forth; and whereas it is  
expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of  
the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of *The City of Toronto Act, 1971*, being chapter 130, 1971, c. 130, s. 2  
amended  
is amended by adding thereto the following subsection:

(2) A by-law passed under this section shall be enforceable Enforcement  
in the same manner as a by-law passed under the authority  
of *The Municipal Act* and any such by-law may impose penalties R.S.O. 1970,  
c. 284  
of not more than \$1,000, exclusive of costs, upon every person  
who contravenes any provisions of any by-law passed pursuant  
to this section.

2. (1) In this section, "public place" includes any place to which Interpre-  
tation  
the public have access as of right including any public  
highway under the jurisdiction of The Municipality of  
Metropolitan Toronto.

(2) The council of the Corporation may pass by-laws for By-laws  
prohibiting  
begging, etc.  
prohibiting persons from begging from door to door or in  
a public place within the City of Toronto or any defined  
area thereof.

(3) A by-law passed under this section shall be enforceable Enforcement  
in the same manner as a by-law passed under the authority  
of *The Municipal Act* and any such by-law may impose  
penalties of not more than \$1,000, exclusive of costs,  
upon every person who contravenes any provisions of any  
by-law passed pursuant to this section.

(4) Any constable or police officer may arrest without a Arrest  
without  
warrant  
warrant a person whom he finds contravening any provision  
of any by-laws passed pursuant to this section.

Commence-  
ment**3.** This Act comes into force on the day it receives Royal Assent.

Short title

**4.** This Act may be cited as *The City of Toronto Act, 1974* (No. 2).









*1st Reading*

April 4th, 1974

*2nd Reading*

*3rd Reading*

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MR. WARDLE

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*(Private Bill)*

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting the City of Toronto**

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**MR. WARDLE**

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*(Reprinted as amended by the Private Bills Committee)*



ELL Pr30

1974

## An Act respecting the City of Toronto

**W**HEREAS The Corporation of the City of Toronto, herein <sup>Preamble</sup>  
called the Corporation, hereby applies for special legislation  
respect of the matters hereinafter set forth; and whereas it is  
expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of  
the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of *The City of Toronto Act, 1971*, being chapter 130, <sup>1971, c. 130, s. 2</sup>  
is amended by adding thereto the following subsection: <sup>amended</sup>

(2) A by-law passed under this section shall be enforceable <sup>Enforcement</sup>  
in the same manner as a by-law passed under the authority  
of *The Municipal Act* and any such by-law may impose penalties <sup>R.S.O. 1970,</sup>  
of not more than \$1,000, exclusive of costs, upon every person <sup>c. 284</sup>  
who contravenes any provisions of any by-law passed pursuant  
to this section.

2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-</sup>  
<sup>ment</sup>
3. This Act may be cited as *The City of Toronto Act, 1974* (No. 2). <sup>Short title</sup>

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*1st Reading*

April 4th, 1974

*2nd Reading*

*3rd Reading*

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MR. WARDLE

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*(Reprinted as amended by the  
Private Bills Committee)*



4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting the City of Toronto**

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**MR. WARDLE**

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## An Act respecting the City of Toronto

**W**HEREAS The Corporation of the City of Toronto, herein <sup>Preamble</sup>  
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respect of the matters hereinafter set forth; and whereas it is  
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Therefore, Her Majesty, by and with the advice and consent of  
the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of *The City of Toronto Act, 1971*, being chapter 130, <sup>1971, c. 130, s. 2</sup>  
is amended by adding thereto the following subsection: <sup>amended</sup>

(2) A by-law passed under this section shall be enforceable <sup>Enforcement</sup>  
in the same manner as a by-law passed under the authority  
of *The Municipal Act* and any such by-law may impose penalties <sup>R.S.O. 1970,</sup>  
of not more than \$1,000, exclusive of costs, upon every person <sup>c. 284</sup>  
who contravenes any provisions of any by-law passed pursuant  
to this section.

2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-</sup>  
<sup>ment</sup>
3. This Act may be cited as *The City of Toronto Act, 1974* (No. 2). <sup>Short title</sup>

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*1st Reading*

April 4th, 1974

*2nd Reading*

May 7th, 1974

*3rd Reading*

May 7th, 1974

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MR. WARDLE

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act respecting the City of London**

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**MR. WALKER**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**

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*1st Reading*

April 4th, 1974

*2nd Reading*

May 7th, 1974

*3rd Reading*

May 7th, 1974

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MR. WARDLE

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act respecting the City of London**

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**MR. WALKER**

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## An Act respecting the City of London

**WHEREAS** The Corporation of the City of London, herein called <sup>Preamble</sup> the Corporation, hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 6 of section 2 of *The City of London Act, 1960*, <sup>1960, c. 153,</sup> being chapter 153, as enacted by the Statutes of Ontario, 1972, <sup>s. 2 (6), re-enacted</sup> chapter 181, section 3, is repealed and the following substituted therefor:
 

(6) Notwithstanding the provisions of this section, the council of the Corporation may by by-law from time to time <sup>Increased past service pension</sup> increase the amount of any past service pension for the purpose of compensating for the increased cost of living.
2. The provisions of section 582 of *The Municipal Act* shall not <sup>Non-application of</sup> apply to those lands acquired by the Corporation at tax sales <sup>R.S.O. 1970, c. 284, s. 582</sup> held prior to the 31st day of December, 1950, and not heretofore alienated from the Corporation.
3. Paragraph 9 of subsection 1 of section 2 of *The City of London Act, 1971*, being chapter 117, is amended by adding at the end thereof "and such contribution shall not be deemed to be taxation within the meaning of *The Assessment Act* or any other Act which has a connotation of taxation". <sup>1971, c. 117, s. 2 (1), par. 9, amended</sup>
- 4.—(1) The council of the Corporation may pass a by-law, without obtaining the approval of the Ontario Municipal Board, authorizing the issue of debentures in the amount of \$550,000 for the purpose of paying off the temporary loan obtained for industrial lands purchased on Trafalgar Street, more particularly described in Schedules A and B hereto and such debentures shall have a maturity date prior to the 30th day of October, 1979, and a five-year term and payments shall be amortized. <sup>Debentures authorized</sup>

Applica-  
tion of  
R.S.O. 1970,  
c. 323, ss. 55-58

- (2) Sections 55, 56, 57 and 58 of *The Ontario Municipal Board Act* apply in respect of any by-law passed under subsection 1 and to any debentures issued thereunder.

Order of  
O.M.B.  
deemed  
issued

- (3) For the purposes of every Act, the Ontario Municipal Board shall be deemed to have issued an order under section 64 of *The Ontario Municipal Board Act* authorizing the acquisition of the undeveloped industrial land referred to in subsection 1 and authorizing the Corporation to issue debentures under subsection 1.

Art Gallery  
Board of  
Management  
established

- 5.—(1) An Art Gallery Board of Management is hereby established for the purpose of planning, erecting, altering, maintaining, operating and managing an Art Gallery or Art Galleries within the limits of the City of London.

Composition  
of Board

- (2) The council of the Corporation shall appoint five members to the Board, one of whom shall be an elected member of council and four shall be citizens at large, none of whom shall hold office in organizations mentioned herein while members of the Board.

Idem

- (3) There shall be four other members of the Board, one appointed by the Canadian Artists' Representatives, one appointed by the London Art Gallery Association, one appointed by the Public Library Board and one other citizen appointed by The London Art Gallery Board.

Term of  
office

- (4) For the first term of appointment of members, those appointed by the council shall be appointed for a one-year term, their appointment to be completed and finished up to the 31st day of December, 1974.

Idem

- (5) For those appointed by the Canadian Artists' Representatives, the London Art Gallery Association, the Public Library Board and The London Art Gallery Board, the appointment shall be for a two-year term and shall terminate on the 31st day of December, 1975, and thereafter all appointments shall be for a period of two years, the City of London appointees starting the 1st day of January, 1975, and the four other appointees starting the 1st day of January, 1976.

Members  
eligible for re-  
appointment

- (6) Nothing herein prevents the reappointment of any member of the Board for a further term or terms.

Failure to  
make  
appointment,  
etc.

- (7) In the event that one or more of the organizations mentioned herein ceases to exist, or fails to make an appointment, the council, on the recommendation of The London Art Gallery Board, shall by by-law substitute another



organization or in the alternative, provide for an additional appointment by the council.

- (8) The Art Gallery or Art Galleries shall be under the management, regulation and control of the Board, which shall be a corporation under the name of "The London Art Gallery Board". Board to manage and control Art Gallery

- (9) The Board shall have the following further powers: Additional powers of Board

1. To promote interest in and advance the study, knowledge and appreciation of art of all forms.
2. To provide facilities for the storing, housing and display of art of all forms.
3. To provide facilities for education and instruction in art of all forms.
4. To collect and raise money by way of grants, gifts, donations, bequests, legacies and other payments and to hold, invest, expend or deal with such funds in furtherance of the objects of the Corporation.

- (10) The head office of the Corporation shall be situate in the City of London, in the County of Middlesex. Head office

- (11) The Council of the Corporation shall provide to The London Art Gallery Board an operating grant of \$110,747 per annum, which sum may be adjusted annually to the extent of accommodating the effect of inflation, provided, however, that in the first year of operation, the amount of the grant shall be pro-rated according to the number of the months during which the Art Gallery is operated. Operating grant

6. Subsections 1, 2, 3, 4 and 7 of section 5 of *The City of London Act*, 1972, c. 181, 1972, being chapter 181, are repealed and the following substituted therefor: 1972, c. 181, s. 5 (1-4, 7), re-enacted

(1) The council of the Corporation may, with the prior approval of the Ontario Municipal Board, by by-law, designate buildings, structures or sites and the lands associated with the buildings or structures, as buildings, structures or sites of historical or architectural value or interest and the said by-law or by-laws may prohibit the demolition, destruction or alteration of any building or structure so designated, or prohibit or regulate the alteration or renovation thereof. Designation of buildings, etc., of historical or architectural value

Acquisition  
of buildings,  
etc.

(2) The council of the Corporation may provide by by-law for the acquisition by purchase, lease or otherwise of a building, structure or site so designated.

Grants

(3) The council of the Corporation may, by by-law, provide for the making of grants to assist in the renovation, restoration or maintenance of any building, structure or site designated.

By-law to be  
null and void  
if no  
agreement re  
acquisition,  
etc., of  
building,  
structure or  
site

(4) Where a by-law prohibits the demolition, destruction, alteration or renovation of a building, structure or site designated, the Corporation shall, within ninety days of the approval of the by-law,

(a) enter into an agreement to acquire the property

(b) enter into an agreement for the payment of compensation to the owner of the building, structure or site;

(c) expropriate the building, structure or site,

failing which, the by-law so designating a building, structure or site shall, for all purposes, following the expiration of the said ninety-day period, be null and void and of no further force or effect.

Advisory  
Committee

(7) The council of the Corporation may, by by-law, establish an Advisory Committee which shall be responsible to the council of the Corporation for recommending sites of historical or architectural interest and having such responsibility for the preparation of reports and recommendations for consideration by the council, as the council may by by-law provide.

Lands vested  
in  
Corporation

7. Part of the lands described in a plan of expropriation registered in the Registry Office for the Registry Division of London (No. 160342) on the 3rd day of March, 1971, as Number 160342, which lands are described in Schedule C hereto and certified as to title by William L. Moore, one of Her Majesty's Counsel learned in the law, on the 7th day of February, 1974, are vested in fee simple in the Corporation, and have been from the 3rd day of March, 1971, and shall be clear and free from all rights, trusts, interests, limitations, restrictions or covenants whatsoever.

1951, c. 107,  
s. 7 (2, 3),  
repealed

8. Subsections 2 and 3 of section 7 of *The City of London Act, 1951*, being chapter 107, as enacted by the Statutes of Ontario, 1951, chapter 124, section 4, are repealed.

Commence-  
ment

9. This Act comes into force on the day it receives Royal Assent.

Short title

10. This Act may be cited as *The City of London Act, 1974*.



## SCHEDULE A

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the City of London, in the County of Middlesex, and being composed of

## FIRSTLY

Part of Lot Number Two (2), Concession "B", formerly in the Township of London, which parcel may be more particularly described as follows

PREMISING that all bearings are astronomic and are referred to the bearing of North 69 degrees 35 minutes 10 seconds East of the Northerly limit of said Lot Number Two (2);

COMMENCING in the North-west angle of said Lot Number Two (2);

THENCE South 20 degrees 23 minutes 30 seconds East, two thousand two hundred and fifty-two and eighty-seven one-hundredths feet (2,252.87') to the South-west angle of the North half of said Lot Number Two (2);

THENCE North 68 degrees 48 minutes 30 seconds East along the Southerly limit of the North half of said Lot, two thousand and nine and seventy-four one hundredths feet (2,009.74') to the South-east angle of the North half of said Lot;

THENCE North 20 degrees 33 minutes 50 seconds West along the Easterly limit of said Lot, two thousand and sixty and fifty-eight one-hundredths feet (2,060.58') to a point distant two hundred feet (200') Southerly from the North-east angle of said Lot;

THENCE South 68 degrees 35 minutes 10 seconds West parallel to the Northerly limit of said Lot, one hundred and fifty feet (150');

THENCE North 20 degrees 33 minutes 50 seconds West parallel to the Easterly limit of said Lot, two hundred feet (200') to the Northerly limit thereof;

THENCE South 68 degrees 35 minutes 10 seconds West along the Northerly limit of said Lot, sixty-six feet (66');

THENCE South 20 degrees 33 minutes 50 seconds East parallel to the Easterly limit of said Lot, two hundred feet (200');

THENCE South 68 degrees 35 minutes 10 seconds West parallel to the Northerly limit of said Lot, one hundred and fifty feet (150');

THENCE South 20 degrees 33 minutes 50 seconds East parallel to the Easterly limit of said Lot, thirty-nine and ninety-one one-hundredths feet (39.91');

THENCE South 68 degrees 35 minutes 10 seconds West parallel to the Northerly limit of said Lot, three hundred feet (300');

THENCE North 20 degrees 33 minutes 50 seconds West parallel to the Easterly limit of said Lot, two hundred and thirty nine and ninety-one one-hundredths feet (239.91') to the Northerly limit thereof.

THENCE South 68 degrees 35 minutes 10 seconds West along the Northerly limit of said Lot, one thousand three hundred and thirty-seven and twenty one-hundredths feet (1,337.20') to the place of beginning.

CONTAINING by admeasurement 100.91 acres be the same more or less.

SECONDLY:

Part of Lot Number Two (2), Concession "C", formerly in the Township of London, which parcel may be more particularly described as follows:

PREMISING that all bearings are astronomic and are referred to the bearing of North 69 degrees 35 minutes 10 seconds East of the Southerly limit of said Lot Number Two (2);

COMMENCING in the Southerly limit of said Lot at a point distant three hundred feet (300') Westerly therealong from the South-east angle thereof;

THENCE South 68 degrees 35 minutes 10 seconds West along the Southerly limit of said Lot, three hundred and sixty-five and fifty-five one-hundredths feet to the fence marking the West limit of the East 20 acres of the South 60 acres of said Lot Number Two (2);

THENCE North 68 degrees 50 minutes West along said fence, two thousand six hundred and forty and ninety one-hundredths feet (2,640.90');;

THENCE North 68 degrees 58 minutes 10 seconds East, six hundred and sixty-one and eighty-eight one-hundredths feet (661.88') to the Easterly limit of said Lot Number Two (2);

THENCE South 20 degrees 29 minutes 50 seconds East along the Easterly limit of said Lot, two thousand four hundred and eighty-six and forty-nine one-hundredths feet (2,486.49') to a point distant one hundred and fifty feet (150') Northerly from the South-east angle of said Lot;

THENCE South 68 degrees 35 minutes 10 seconds West parallel to the Southerly limit of said Lot, three hundred feet (300');;

THENCE South 20 degrees 29 minutes 50 seconds East parallel to the Easterly limit of said Lot, one hundred and fifty feet (150') to the place of beginning.

CONTAINING by admeasurement 39.17 acres be the same more or less.

## SCHEDULE B

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the City of London, formerly in the Township of London, in the County of Middlesex and the Province of Ontario, and being composed of

## FIRSTLY

Containing by admeasurement one hundred (100) acres, be the same more or less, being composed of the North half of Lot Number One (1), in Concession "B", in the said City of London, formerly the Township of London, and is butted and bounded as follows, that is to say:

COMMENCING at the North-west angle of said Lot Number One (1).

THENCE North sixty-eight (68) degrees thirty (30) minutes East, one thousand nine hundred and sixty-three and fifty one-hundredths feet (1,963.50') more or less to the allowance for road forming the Eastern boundary of the said City;

THENCE South twenty-one (21) degrees thirty (30) minutes East, two thousand two hundred and eighteen and twenty-six one-hundredths feet (2,218.26') more or less to land sold to one Schrambling;

THENCE South sixty-eight (68) degrees thirty (30) minutes West, one thousand nine hundred and sixty-three and fifty one-hundredths feet (1,963.50') more or less to the Western limit of said Lot;

THENCE North twenty-one (21) degrees thirty (30) minutes West, two thousand two hundred and eighteen and twenty-six one-hundredths feet (2,218.26') to the place of beginning.

## SECONDLY

That part of Lot Number One (1), in Concession "B", in the City of London, formerly the Township of London, which may be more particularly described as follows:

COMMENCING at a standard iron bar planted on the North-easterly angle of the South half of the said Lot;

THENCE South along the Easterly limit of the said Lot, being the Westerly limit of Crumlin Sideroad, a distance of five hundred and seventy-nine and sixty-two one-hundredths feet (579.62') to a point;

THENCE Westerly parallel with the North limit of the said Lot, one hundred and fifty feet (150');

THENCE Southerly parallel with the East limit a distance of six hundred and five and twenty one-hundredths feet (605.20') to a point;

THENCE Westerly parallel to the Southerly boundary of the said Lot, three hundred and nine feet (309') to a point;

THENCE Northerly and parallel to the East limit of the said Lot, forty-two feet (42') to a point;

THENCE Westerly and parallel to the Southern boundary of the said Lot to a point in a line drawn parallel to the East limit of the said Lot and at such distance as to be the Westerly limit of the East thirty (30) acres of even depth of the North half of the South half of the said Lot;

THENCE Northerly and parallel to the East limit to a point in a line between the North and South halves of said Lot;

THENCE Easterly along the line between the North and South halves of said Lot to the point of commencement; which lands were formerly described as the North half of the South half of the said Lot Number One (1).



## SCHEDULE C

ALL THAT PORTION of Carling Street, Registered Plan 61 and Lots 16, 17 and 18, north of Dundas Street, in the City of London, in the County of Middlesex, in the Province of Ontario, having an area of 60,193.52 square feet, more or less, and described as follows:

PREMISING that all bearings herein are astronomic and are referred to the meridian in longitude 82 degrees 30 minutes west;

COMMENCING at a point in the southerly limit of the said Lot 18 distant 292.03 feet measured north 68 degrees 33 minutes 16 seconds east along the northerly limit of Dundas Street from the easterly limit of Ridout Street:

THENCE north 68 degrees 33 minutes 16 seconds east along the southerly limit of the said Lots 18, 17 and 16, 250.83 feet, more or less, to a line drawn parallel to the westerly limit of Talbot Street, and distant 5.00 feet measured westerly and perpendicularly therefrom;

THENCE north 21 degrees 12 minutes 56 seconds west along the said parallel line 216.58 feet;

THENCE north 21 degrees 49 minutes 30 seconds west continuing along the said parallel line 23.20 feet;

THENCE south 68 degrees 33 minutes 16 seconds west parallel to the northerly limit of Dundas Street 251.04 feet, more or less, to a line drawn parallel to the easterly limit of Ridout Street through the point of commencement;

THENCE south 21 degrees 19 minutes 25 seconds east along the last-mentioned parallel line 239.77 feet, more or less, to the point of commencement

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*1st Reading*

April 4th, 1974

*2nd Reading*

*3rd Reading*

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MR. WALKER

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*(Private Bill)*



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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting the City of London**

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**MR. WALKER**

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*(Reprinted as amended by the Private Bills Committee)*



## An Act respecting the City of London

**WHEREAS** The Corporation of the City of London, herein called <sup>Preamble</sup> the Corporation, hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 6 of section 2 of *The City of London Act, 1960*, <sup>1960, c. 153, s. 2 (6),</sup> being chapter 153, as enacted by the Statutes of Ontario, 1972, <sup>re-enacted</sup> chapter 181, section 3, is repealed and the following substituted therefor:

(6) Notwithstanding the provisions of this section, the <sup>Increased</sup> council of the Corporation may by by-law from time to time <sup>past service</sup> increase the amount of any past service <sup>pension</sup> pension for the purpose of compensating for the increased cost of living.

2. The provisions of section 582 of *The Municipal Act* shall not <sup>Non-application of</sup> apply to those lands acquired by the Corporation at tax sales <sup>R.S.O. 1970, c. 284, s. 582</sup> held prior to the 31st day of December, 1950, and not heretofore alienated from the Corporation.

3. Paragraph 9 of subsection 1 of section 2 of *The City of London Act, 1971*, <sup>1971, c. 117, s. 2 (1), par. 9,</sup> being chapter 117, is amended by adding at the end thereof "and such contribution shall not be deemed to be <sup>amended</sup> taxation within the meaning of *The Assessment Act* or any other Act which has a connotation of taxation".

- 4.—(1) The council of the Corporation may pass a by-law, with- <sup>Debentures</sup> out obtaining the approval of the Ontario Municipal Board, <sup>authorized</sup> authorizing the issue of debentures in the amount of \$550,000 for the purpose of paying off the temporary loan obtained for industrial lands purchased on Trafalgar Street, more particularly described in Schedules A and B hereto and such debentures shall have a maturity date prior to the 30th day of October, 1979, and a five-year term and payments shall be amortized.

Applica-  
tion of  
R.S.O. 1970,  
c. 323, ss. 55-58

- (2) Sections 55, 56, 57 and 58 of *The Ontario Municipal Board Act* apply in respect of any by-law passed under subsection 1 and to any debentures issued thereunder.

Order of  
O.M.B.  
deemed  
issued

- (3) For the purposes of every Act, the Ontario Municipal Board shall be deemed to have issued an order under section 64 of *The Ontario Municipal Board Act* authorizing the acquisition of the undeveloped industrial land referred to in subsection 1 and authorizing the Corporation to issue debentures under subsection 1.

London Art  
Gallery  
Board  
established



- 5.—(1) A corporation without share capital is hereby established under the name of "The London Art Gallery Board" for the purpose of planning, erecting, altering, maintaining, operating and managing an Art Gallery or Art Galleries within the limits of the City of London.

Composition  
of Board

- (2) The council of the Corporation shall appoint five members to the Board, one of whom shall be an elected member of council and four shall be citizens at large, none of whom shall hold office in organizations mentioned herein while members of the Board.

Idem

- (3) There shall be four other members of the Board, one appointed by the Canadian Artists' Representation, one appointed by the London Art Gallery Association, one appointed by the Public Library Board and one other citizen appointed by The London Art Gallery Board.

Term of  
office

- (4) For the first term of appointment of members, those appointed by the council shall be appointed for a one-year term, their appointment to be completed and finished up to the 31st day of December, 1974.

Idem

- (5) For those appointed by the Canadian Artists' Representation, the London Art Gallery Association, the Public Library Board and The London Art Gallery Board, the appointment shall be for a two-year term and shall terminate on the 31st day of December, 1975, and thereafter all appointments shall be for a period of two years, the City of London appointees starting the 1st day of January, 1975, and the four other appointees starting the 1st day of January, 1976.

Members  
eligible for re-  
appointment

- (6) Nothing herein prevents the reappointment of any member of the Board for a further term or terms.

Failure to  
make  
appointment,  
etc.

- (7) In the event that one or more of the organizations mentioned herein ceases to exist, or fails to make an appointment, the council, on the recommendation of The London Art Gallery Board, shall by by-law substitute another



organization or in the alternative, provide for an additional appointment by the council.

- (8) The Art Gallery or Art Galleries shall be under the management, regulation and control of the Board. Board to manage and control Art Gallery
- (9) The Board shall have the following further powers: Additional powers of Board
1. To promote interest in and advance the study, knowledge and appreciation of art of all forms.
  2. To provide facilities for the storing, housing and display of art of all forms.
  3. To provide facilities for education and instruction in art of all forms.
  4. Subject to *The Mortmain and Charitable Uses Act* R.S.O. 1970, cc. 280, 61 and to *The Charitable Gifts Act*, to collect and raise money by way of grants, gifts, donations, bequests, legacies and other payments and to hold, expend or deal with such funds in furtherance of the foregoing objects.
  5. To invest, in investments authorized under *The Trustee Act* R.S.O. 1970, c. 470 for the investment of trust funds, moneys of the corporation not immediately required for its objects. [Redacted]
- (10) The head office of the corporation shall be situate in the City of London, in the County of Middlesex. Head office
- (11) The council of the Corporation may provide to The London Art Gallery Board an annual operating grant. Operating grant
- (12) The directors shall serve without compensation, and no director shall, directly or indirectly, receive any profit as such but reasonable expenses incurred by any director in the performance of his duty may be paid. Directors to serve without compensation
- (13) Upon the dissolution of the Board and after the payment of all debts and liabilities, the remaining property of the Board shall be distributed to the Corporation or disposed of to such organizations, having objects similar to those of the Board, as may be designated by the council of the Corporation. Dissolution
6. Subsections 1, 2, 3, 4 and 7 of section 5 of *The City of London Act*, 1972, c. 181, s. 5 (1-4, 7), 1972, being chapter 181, are repealed and the following substituted therefor: 1972, c. 181, s. 5 (1-4, 7), re-enacted

Designation  
of buildings,  
etc., of  
historical or  
architectural  
value

(1) The council of the Corporation may, with the prior approval of the Ontario Municipal Board, by by-law, designate buildings, structures or sites and the lands associated with the buildings or structures, as buildings, structures or sites of historical or architectural value or interest and the said by-law or by-laws may prohibit the demolition, destruction or alteration of any building or structure so designated, or prohibit or regulate the alteration or renovation thereof.

Acquisition  
of buildings,  
etc.

(2) The council of the Corporation may provide by by-law for the acquisition by purchase, lease or otherwise of any building, structure or site so designated.

Grants

(3) The council of the Corporation may, by by-law, provide for the making of grants to assist in the renovation, restoration or maintenance of any building, structure or site so designated.

By-law to be  
null and void  
if no  
agreement re  
acquisition,  
etc., of  
building,  
structure or  
site

(4) Where a by-law prohibits the demolition, destruction or alteration or renovation of a building, structure or site so designated, the Corporation shall, within ninety days of the approval of the by-law,

(a) enter into an agreement to acquire the property;

(b) enter into an agreement for the payment of compensation to the owner of the building, structure or site; or

(c) expropriate the building, structure or site,

failing which, the by-law so designating a building, structure or site shall, for all purposes, following the expiration of the said ninety-day period, be null and void and of no further force or effect.


Advisory  
Committee

(7) The council of the Corporation may, by by-law, establish an Advisory Committee which shall be responsible to the council of the Corporation for recommending sites of historical or architectural interest and having such responsibility for the preparation of reports and recommendations for consideration by the council, as the council may by by-law provide.

Lands  
vested in  
Corporation  
R.S.O. 1970,  
c. 154

7. Part of the lands described in a plan of expropriation pursuant to subsection 1 of section 9 of *The Expropriations Act*, registered in the Registry Office for the Registry Division of London (No. 32) on the 3rd day of March, 1971, as Number 160342 which lands are described in Schedule C hereto and certified as to title by William L. Moore, one of Her Majesty's Counsel learned in the law, on the 7th day of February, 1974, were vested in fee simple in The Corporation of the City of London



on the 3rd day of March, 1971, and were on said date clear and free from all rights, trusts, interests, limitations, restrictions or covenants whatsoever. 

8. Subsections 2 and 3 of section 7 of *The City of London Act, 1951*, being chapter 107, as enacted by the Statutes of Ontario, 1952, chapter 124, section 4, are repealed.
9. This Act comes into force on the day it receives Royal Assent.
10. This Act may be cited as *The City of London Act, 1974*.

## SCHEDULE A

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the City of London, in the County of Middlesex, and being composed of:

## FIRSTLY:

Part of Lot Number Two (2), Concession "B", formerly in the Township of London, which parcel may be more particularly described as follows:

PREMISING that all bearings are astronomic and are referred to the bearing of North 69 degrees 35 minutes 10 seconds East of the Northerly limit of said Lot Number Two (2);

COMMENCING in the North-west angle of said Lot Number Two (2);

THENCE South 20 degrees 23 minutes 30 seconds East, two thousand two hundred and fifty-two and eighty-seven one-hundredths feet (2,252.87') to the South-west angle of the North half of said Lot Number Two (2);

THENCE North 68 degrees 48 minutes 30 seconds East along the Southerly limit of the North half of said Lot, two thousand and nine and seventy-four one-hundredths feet (2,009.74') to the South-east angle of the North half of said Lot;

THENCE North 20 degrees 33 minutes 50 seconds West along the Easterly limit of said Lot, two thousand and sixty and fifty-eight one-hundredths feet (2060.58') to a point distant two hundred feet (200') Southerly from the North-east angle of said Lot;

THENCE South 68 degrees 35 minutes 10 seconds West parallel to the Northerly limit of said Lot, one hundred and fifty feet (150');

THENCE North 20 degrees 33 minutes 50 seconds West parallel to the Easterly limit of said Lot, two hundred feet (200') to the Northerly limit thereof;

THENCE South 68 degrees 35 minutes 10 seconds West along the Northerly limit of said Lot, sixty-six feet (66');

THENCE South 20 degrees 33 minutes 50 seconds East parallel to the Easterly limit of said Lot, two hundred feet (200');

THENCE South 68 degrees 35 minutes 10 seconds West parallel to the Northerly limit of said Lot, one hundred and fifty feet (150');

THENCE South 20 degrees 33 minutes 50 seconds East parallel to the Easterly limit of said Lot, thirty-nine and ninety-one one-hundredths feet (39.91');

THENCE South 68 degrees 35 minutes 10 seconds West parallel to the Northerly limit of said Lot, three hundred feet (300');

THENCE North 20 degrees 33 minutes 50 seconds West parallel to the Easterly limit of said Lot, two hundred and thirty-nine and ninety-one one-hundredths feet (239.91') to the Northerly limit thereof;

THENCE South 68 degrees 35 minutes 10 seconds West along the Northerly limit of said Lot, one thousand three hundred and thirty-seven and twenty one-hundredths feet (1,337.20') to the place of beginning.

CONTAINING by admeasurement 100.91 acres be the same more or less

SECONDLY

Part of Lot Number Two (2), Concession "C", formerly in the Township of London, which parcel may be more particularly described as follows:

PREMISING that all bearings are astronomic and are referred to the bearing of North 69 degrees 35 minutes 10 seconds East of the Southerly limit of said Lot Number Two (2);

COMMENCING in the Southerly limit of said Lot at a point distant three hundred feet (300') Westerly therealong from the South-east angle thereof;

THENCE South 68 degrees 35 minutes 10 seconds West along the Southerly limit of said Lot, three hundred and sixty-five and fifty-five one-hundredths feet to the fence marking the West limit of the East 20 acres of the South 60 acres of said Lot Number Two (2);

THENCE North 68 degrees 50 minutes West along said fence, two thousand six hundred and forty and ninety one-hundredths feet (2,640.90');

THENCE North 68 degrees 58 minutes 10 seconds East, six hundred and sixty-one and eighty-eight one-hundredths feet (661.88') to the Easterly limit of said Lot Number Two (2);

THENCE South 20 degrees 29 minutes 50 seconds East along the Easterly limit of said Lot, two thousand four hundred and eighty-six and forty-nine one-hundredths feet (2,486.49') to a point distant one hundred and fifty feet (150') Northerly from the South-east angle of said Lot;

THENCE South 68 degrees 35 minutes 10 seconds West parallel to the Southerly limit of said Lot, three hundred feet (300');

THENCE South 20 degrees 29 minutes 50 seconds East parallel to the Easterly limit of said Lot, one hundred and fifty feet (150') to the place of beginning.

CONTAINING by admeasurement 39.17 acres be the same more or less.

## SCHEDULE B

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the City of London, formerly in the Township of London, in the County of Middlesex and the Province of Ontario, and being composed of:

## FIRSTLY:

Containing by admeasurement one hundred (100) acres, be the same more or less, being composed of the North half of Lot Number One (1), in Concession "B", in the said City of London, formerly the Township of London, and is butted and bounded as follows, that is to say:

COMMENCING at the North-west angle of said Lot Number One (1);

THENCE North Sixty-eight (68) degrees thirty (30) minutes East, one thousand nine hundred and sixty-three and fifty one-hundredths feet (1,963.50') more or less to the allowance for road forming the Eastern boundary of the said City;

THENCE South twenty-one (21) degrees thirty (30) minutes East, two thousand two hundred and eighteen and twenty-six one-hundredths feet (2,218.26') more or less to land sold to one Schrambling;

THENCE South sixty-eight (68) degrees thirty (30) minutes West, one thousand nine hundred and sixty-three and fifty one-hundredths feet (1,963.50') more or less to the Western limit of said Lot;

THENCE North twenty-one (21) degrees thirty (30) minutes West, two thousand two hundred and eighteen and twenty-six one-hundredths feet (2,218.26') to the place of beginning.

## SECONDLY:

That part of Lot Number One (1), in Concession "B", in the City of London, formerly the Township of London, which may be more particularly described as follows:

COMMENCING at a standard iron bar planted on the North-easterly angle of the South half of the said Lot;

THENCE South along the Easterly limit of the said Lot, being the Westerly limit of Crumlin Sideroad, a distance of five hundred and seventy-nine and sixty-two one-hundredths feet (579.62') to a point;

THENCE Westerly parallel with the North limit of the said Lot, one hundred and fifty feet (150');

THENCE Southerly parallel with the East limit a distance of six hundred and five and twenty one-hundredths feet (605.20') to a point;

THENCE Westerly parallel to the Southerly boundary of the said Lot, three hundred and nine feet (309') to a point;

THENCE Northerly and parallel to the East limit of the said Lot, forty-two feet (42') to a point;

THENCE Westerly and parallel to the Southern boundary of the said Lot to a point in a line drawn parallel to the East limit of the said Lot and at such distance as to be the Westerly limit of the East thirty (30) acres of even depth of the North half of the South half of the said Lot;



TRECE Northerly and parallel to the East limit to a point in a line between the North and South halves of said Lot.

TRECE Easterly along the line between the North and South halves of said Lot to the point of commencement, which lands were formerly described as the North half of the South half of the said Lot Number One (1).

## SCHEDULE C

ALL THAT PORTION of Carling Street, Registered Plan 61 and Lots 16, 17 and 18, north of Dundas Street, in the City of London, in the County of Middlesex, in the Province of Ontario, having an area of 60,193.52 square feet, more or less, and described as follows:

PREMISING that all bearings herein are astronomic and are referred to the meridian in longitude 82 degrees 30 minutes west;

COMMENCING at a point in the southerly limit of the said Lot 18 distant 292.03 feet measured north 68 degrees 33 minutes 16 seconds east along the northerly limit of Dundas Street from the easterly limit of Ridout Street;

THENCE north 68 degrees 33 minutes 16 seconds east along the southerly limit of the said Lots 18, 17 and 16, 250.83 feet, more or less, to a line drawn parallel to the westerly limit of Talbot Street, and distant 5.00 feet measured westerly and perpendicularly therefrom;

THENCE north 21 degrees 12 minutes 56 seconds west along the said parallel line 216.58 feet;

THENCE north 21 degrees 49 minutes 30 seconds west continuing along the said parallel line 23.20 feet;

THENCE south 68 degrees 33 minutes 16 seconds west parallel to the northerly limit of Dundas Street 251.04 feet, more or less, to a line drawn parallel to the easterly limit of Ridout Street through the point of commencement;

THENCE south 21 degrees 19 minutes 25 seconds east along the last-mentioned parallel line 239.77 feet, more or less, to the point of commencement.









*1st Reading*

April 4th, 1974

*2nd Reading*

*3rd Reading*

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MR. WALKER

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*(Reprinted as amended by the  
Private Bills Committee)*

# **BILL Pr31**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act respecting the City of London**

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**MR. WALKER**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**

THE UNIVERSITY OF CHICAGO

2



## An Act respecting the City of London

**WHEREAS** The Corporation of the City of London, herein called <sup>Preamble</sup> the Corporation, hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 6 of section 2 of *The City of London Act, 1960*, <sup>1960, c. 153, s. 2 (6), re-enacted</sup> being chapter 153, as enacted by the Statutes of Ontario, 1972, chapter 181, section 3, is repealed and the following substituted therefor:
 

(6) Notwithstanding the provisions of this section, the council of the Corporation may by by-law from time to time <sup>Increased past service pension</sup> increase the amount of any past service pension for the purpose of compensating for the increased cost of living.
2. The provisions of section 582 of *The Municipal Act* shall not <sup>Non-application of R. S. O. 1970, c. 284, s. 582</sup> apply to those lands acquired by the Corporation at tax sales held prior to the 31st day of December, 1950, and not heretofore alienated from the Corporation.
3. Paragraph 9 of subsection 1 of section 2 of *The City of London Act, 1971*, being chapter 117, is amended by adding at the end thereof "and such contribution shall not be deemed to be taxation within the meaning of *The Assessment Act* or any other Act which has a connotation of taxation". <sup>1971, c. 117, s. 2 (1), par. 9, amended</sup>
4. — (1) The council of the Corporation may pass a by-law, without obtaining the approval of the Ontario Municipal Board, authorizing the issue of debentures in the amount of \$550,000 for the purpose of paying off the temporary loan obtained for industrial lands purchased on Trafalgar Street, more particularly described in Schedules A and B hereto and such debentures shall have a maturity date prior to the 30th day of October, 1979, and a five-year term and payments shall be amortized. <sup>Debentures authorized</sup>

Applica-  
tion of  
R.S.O. 1970,  
c. 323, ss. 55-58

- (2) Sections 55, 56, 57 and 58 of *The Ontario Municipal Board Act* apply in respect of any by-law passed under subsection 1 and to any debentures issued thereunder.

Order of  
O.M.B.  
deemed  
issued

- (3) For the purposes of every Act, the Ontario Municipal Board shall be deemed to have issued an order under section 64 of *The Ontario Municipal Board Act* authorizing the acquisition of the undeveloped industrial land referred to in subsection 1 and authorizing the Corporation to issue debentures under subsection 1.

London Art  
Gallery  
Board  
established

- 5.—(1) A corporation without share capital is hereby established under the name of "The London Art Gallery Board" for the purpose of planning, erecting, altering, maintaining, operating and managing an Art Gallery or Art Galleries within the limits of the City of London.

Composition  
of Board

- (2) The council of the Corporation shall appoint five members to the Board, one of whom shall be an elected member of council and four shall be citizens at large, none of whom shall hold office in organizations mentioned herein while members of the Board.

Idem

- (3) There shall be four other members of the Board, one appointed by the Canadian Artists' Representation, one appointed by the London Art Gallery Association, one appointed by the Public Library Board and one other citizen appointed by The London Art Gallery Board.

Term of  
office

- (4) For the first term of appointment of members, those appointed by the council shall be appointed for a one-year term, their appointment to be completed and finished up to the 31st day of December, 1974.

Idem

- (5) For those appointed by the Canadian Artists' Representation, the London Art Gallery Association, the Public Library Board and The London Art Gallery Board, the appointment shall be for a two-year term and shall terminate on the 31st day of December, 1975, and thereafter all appointments shall be for a period of two years, the City of London appointees starting the 1st day of January, 1975, and the four other appointees starting the 1st day of January, 1976.

Members  
eligible for re-  
appointment

- (6) Nothing herein prevents the reappointment of any member of the Board for a further term or terms.

Failure to  
make  
appointment,  
etc.

- (7) In the event that one or more of the organizations mentioned herein ceases to exist, or fails to make an appointment, the council, on the recommendation of The London Art Gallery Board, shall by by-law substitute another

organization or in the alternative, provide for an additional appointment by the council.

- (8) The Art Gallery or Art Galleries shall be under the management, regulation and control of the Board. Board to manage and control Art Gallery
- (9) The Board shall have the following further powers: Additional powers of Board
1. To promote interest in and advance the study, knowledge and appreciation of art of all forms.
  2. To provide facilities for the storing, housing and display of art of all forms.
  3. To provide facilities for education and instruction in art of all forms.
  4. Subject to *The Mortmain and Charitable Uses Act* R.S.O. 1970, cc. 290, 61 and to *The Charitable Gifts Act*, to collect and raise money by way of grants, gifts, donations, bequests, legacies and other payments and to hold, expend or deal with such funds in furtherance of the foregoing objects.
  5. To invest, in investments authorized under *The Trustee Act* R.S.O. 1970, c. 470 for the investment of trust funds, moneys of the corporation not immediately required for its objects.
- (10) The head office of the corporation shall be situate in the City of London, in the County of Middlesex. Head office
- (11) The council of the Corporation may provide to The London Art Gallery Board an annual operating grant. Operating grant
- (12) The directors shall serve without compensation, and no director shall, directly or indirectly, receive any profit as such but reasonable expenses incurred by any director in the performance of his duty may be paid. Directors to serve without compensation
- (13) Upon the dissolution of the Board and after the payment of all debts and liabilities, the remaining property of the Board shall be distributed to the Corporation or disposed of to such organizations, having objects similar to those of the Board, as may be designated by the council of the Corporation. Dissolution
6. Subsections 1, 2, 3, 4 and 7 of section 5 of *The City of London Act*, 1972, c. 181, 1972, being chapter 181, are repealed and the following substituted therefor: 1972, c. 181, s. 5 (1-4, 7), re-enacted



Designation  
of buildings,  
etc., of  
historical or  
architectural  
value

(1) The council of the Corporation may, with the approval of the Ontario Municipal Board, by by-law, designate buildings, structures or sites and the lands associated with buildings or structures, as buildings, structures or sites of historical or architectural value or interest and the said by-law or by-laws may prohibit the demolition, destruction, alteration of any building or structure so designated, prohibit or regulate the alteration or renovation thereof.

Acquisition  
of buildings,  
etc.

(2) The council of the Corporation may provide by by-law for the acquisition by purchase, lease or otherwise of a building, structure or site so designated.

Grants

(3) The council of the Corporation may, by by-law, provide for the making of grants to assist in the renovation, restoration or maintenance of any building, structure or site so designated.

By-law to be  
null and void  
if no  
agreement re  
acquisition,  
etc., of  
building,  
structure or  
site

(4) Where a by-law prohibits the demolition, destruction, alteration or renovation of a building, structure or site so designated, the Corporation shall, within ninety days of the approval of the by-law,

- (a) enter into an agreement to acquire the property;
- (b) enter into an agreement for the payment of compensation to the owner of the building, structure or site;
- (c) expropriate the building, structure or site,

failing which, the by-law so designating a building, structure or site shall, for all purposes, following the expiration of the said ninety-day period, be null and void and of no further force or effect.

Advisory  
Committee

(7) The council of the Corporation may, by by-law, establish an Advisory Committee which shall be responsible to the council of the Corporation for recommending sites of historical or architectural interest and having such responsibility for the preparation of reports and recommendations for consideration by the council, as the council may by by-law provide.

Lands  
vested in  
Corporation  
R.S.O. 1970,  
c. 154

7. Part of the lands described in a plan of expropriation pursuant to subsection 1 of section 9 of *The Expropriations Act*, registered in the Registry Office for the Registry Division of London (No. 32) on the 3rd day of March, 1971, as Number 16034 which lands are described in Schedule C hereto and certified as to title by William L. Moore, one of Her Majesty's Counsel learned in the law, on the 7th day of February, 1974, were vested in fee simple in The Corporation of the City of London.

on the 3rd day of March, 1971, and were on said date clear and free from all rights, trusts, interests, limitations, restrictions or covenants whatsoever.

8. Subsections 2 and 3 of section 7 of *The City of London Act, 1951*, 1951, c. 107, being chapter 107, as enacted by the Statutes of Ontario, 1952, <sup>s. 7 (2, 3),</sup> repealed chapter 124, section 4, are repealed.
9. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
10. This Act may be cited as *The City of London Act, 1974*. Short title

## SCHEDULE A

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the City of London, in the County of Middlesex, and being composed of:

## FIRSTLY:

Part of Lot Number Two (2), Concession "B", formerly in the Township of London, which parcel may be more particularly described as follows:

PREMISING that all bearings are astronomic and are referred to the bearing of North 69 degrees 35 minutes 10 seconds East of the Northerly limit of said Lot Number Two (2);

COMMENCING in the North-west angle of said Lot Number Two (2);

THENCE South 20 degrees 23 minutes 30 seconds East, two thousand two hundred and fifty-two and eighty-seven one-hundredths feet (2,252.87') to the South-west angle of the North half of said Lot Number Two (2);

THENCE North 68 degrees 48 minutes 30 seconds East along the Southerly limit of the North half of said Lot, two thousand and nine and seventy-four one-hundredths feet (2,009.74') to the South-east angle of the North half of said Lot;

THENCE North 20 degrees 33 minutes 50 seconds West along the Easterly limit of said Lot, two thousand and sixty and fifty-eight one-hundredths feet (2060.58') to a point distant two hundred feet (200') Southerly from the North-east angle of said Lot;

THENCE South 68 degrees 35 minutes 10 seconds West parallel to the Northerly limit of said Lot, one hundred and fifty feet (150');

THENCE North 20 degrees 33 minutes 50 seconds West parallel to the Easterly limit of said Lot, two hundred feet (200') to the Northerly limit thereof;

THENCE South 68 degrees 35 minutes 10 seconds West along the Northerly limit of said Lot, sixty-six feet (66');

THENCE South 20 degrees 33 minutes 50 seconds East parallel to the Easterly limit of said Lot, two hundred feet (200');

THENCE South 68 degrees 35 minutes 10 seconds West parallel to the Northerly limit of said Lot, one hundred and fifty feet (150');

THENCE South 20 degrees 33 minutes 50 seconds East parallel to the Easterly limit of said Lot, thirty-nine and ninety-one one-hundredths feet (39.91');

THENCE South 68 degrees 35 minutes 10 seconds West parallel to the Northerly limit of said Lot, three hundred feet (300');

THENCE North 20 degrees 33 minutes 50 seconds West parallel to the Easterly limit of said Lot, two hundred and thirty-nine and ninety-one one-hundredths feet (239.91') to the Northerly limit thereof;

THENCE South 68 degrees 35 minutes 10 seconds West along the Northerly limit of said Lot, one thousand three hundred and thirty-seven and twenty one-hundredths feet (1,337.20') to the place of beginning.



CONTAINING by admeasurement 100.91 acres be the same more or less.

SECONDLY

Part of Lot Number Two (2), Concession "C" formerly in the Township of London, which parcel may be more particularly described as follows:

PREMISING that all bearings are astronomic and are referred to the bearing of North 69 degrees 35 minutes 10 seconds East of the Southerly limit of said Lot Number Two (2);

COMMENCING in the Southerly limit of said Lot at a point distant three hundred feet (300') Westerly therealong from the South-east angle thereof,

THENCE South 68 degrees 35 minutes 10 seconds West along the Southerly limit of said Lot, three hundred and sixty-five and fifty-five one-hundredths feet to the fence marking the West limit of the East 20 acres of the South 60 acres of said Lot Number Two (2);

THENCE North 68 degrees 50 minutes West along said fence, two thousand six hundred and forty and ninety one-hundredths feet (2,640.90');

THENCE North 68 degrees 58 minutes 10 seconds East, six hundred and sixty-one and eighty-eight one-hundredths feet (661.88') to the Easterly limit of said Lot Number Two (2);

THENCE South 20 degrees 29 minutes 50 seconds East along the Easterly limit of said Lot, two thousand four hundred and eighty-six and forty-nine one-hundredths feet (2,486.49') to a point distant one hundred and fifty feet (150') Northerly from the South-east angle of said Lot;

THENCE South 68 degrees 35 minutes 10 seconds West parallel to the Southerly limit of said Lot, three hundred feet (300');

THENCE South 20 degrees 29 minutes 50 seconds East parallel to the Easterly limit of said Lot, one hundred and fifty feet (150') to the place of beginning.

CONTAINING by admeasurement 39.17 acres be the same more or less.

## SCHEDULE B

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the City of London, formerly in the Township of London, in the County of Middlesex and the Province of Ontario, and being composed of:

### FIRSTLY:

Containing by admeasurement one hundred (100) acres, be the same more or less, being composed of the North half of Lot Number One (1), in Concession "B", in the said City of London, formerly the Township of London, and is butted and bounded as follows, that is to say:

COMMENCING at the North-west angle of said Lot Number One (1);

THENCE North Sixty-eight (68) degrees thirty (30) minutes East, one thousand nine hundred and sixty-three and fifty one-hundredths feet (1,963.50') more or less to the allowance for road forming the Eastern boundary of the said City;

THENCE South twenty-one (21) degrees thirty (30) minutes East, two thousand two hundred and eighteen and twenty-six one-hundredths feet (2,218.26') more or less to land sold to one Schrambling;

THENCE South sixty-eight (68) degrees thirty (30) minutes West, one thousand nine hundred and sixty-three and fifty one-hundredths feet (1,963.50') more or less to the Western limit of said Lot;

THENCE North twenty-one (21) degrees thirty (30) minutes West, two thousand two hundred and eighteen and twenty-six one-hundredths feet (2,218.26') to the place of beginning.

### SECONDLY:

That part of Lot Number One (1), in Concession "B", in the City of London, formerly the Township of London, which may be more particularly described as follows:

COMMENCING at a standard iron bar planted on the North-easterly angle of the South half of the said Lot;

THENCE South along the Easterly limit of the said Lot, being the Westerly limit of Crumlin Sideroad, a distance of five hundred and seventy-nine and sixty-two one-hundredths feet (579.62') to a point;

THENCE Westerly parallel with the North limit of the said Lot, one hundred and fifty feet (150');

THENCE Southerly parallel with the East limit a distance of six hundred and five and twenty one-hundredths feet (605.20') to a point;

THENCE Westerly parallel to the Southerly boundary of the said Lot, three hundred and nine feet (309') to a point;

THENCE Northerly and parallel to the East limit of the said Lot, forty-two feet (42') to a point;

THENCE Westerly and parallel to the Southern boundary of the said Lot to a point in a line drawn parallel to the East limit of the said Lot and at such distance as to be the Westerly limit of the East thirty (30) acres of even depth of the North half of the South half of the said Lot;

THENCE Northerly and parallel to the East limit to a point in a line between the North and South halves of said Lot.

THENCE Easterly along the line between the North and South halves of said Lot to the point of commencement; which lands were formerly described as the North half of the South half of the said Lot Number One (1).

## SCHEDULE C

ALL THAT PORTION of Carling Street, Registered Plan 61 and Lots 16, 17 and 18, north of Dundas Street, in the City of London, in the County of Middlesex, in the Province of Ontario, having an area of 60,193.52 square feet, more or less, and described as follows:

· PREMISING that all bearings herein are astronomic and are referred to the meridian in longitude 82 degrees 30 minutes west;

COMMENCING at a point in the southerly limit of the said Lot 18 distant 292.03 feet measured north 68 degrees 33 minutes 16 seconds east along the northerly limit of Dundas Street from the easterly limit of Ridout Street;

THENCE north 68 degrees 33 minutes 16 seconds east along the southerly limit of the said Lots 18, 17 and 16, 250.83 feet, more or less, to a line drawn parallel to the westerly limit of Talbot Street, and distant 5.00 feet measured westerly and perpendicularly therefrom;

THENCE north 21 degrees 12 minutes 56 seconds west along the said parallel line 216.58 feet;

THENCE north 21 degrees 49 minutes 30 seconds west continuing along the said parallel line 23.20 feet;

THENCE south 68 degrees 33 minutes 16 seconds west parallel to the northerly limit of Dundas Street 251.04 feet, more or less, to a line drawn parallel to the easterly limit of Ridout Street through the point of commencement;

THENCE south 21 degrees 19 minutes 25 seconds east along the last-mentioned parallel line 239.77 feet, more or less, to the point of commencement.









*1st Reading*

April 4th, 1974

*2nd Reading*

April 26th, 1974

*3rd Reading*

April 26th, 1974

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MR. WALKER

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act to amend  
The University Expropriation Powers Act**

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THE HON. R. WELCH  
Attorney General

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#### EXPLANATORY NOTE

Under the provisions of *The Wilfrid Laurier University Act, 1973*, Waterloo Lutheran University became Waterloo Lutheran Seminary and a new university was incorporated under the name of Wilfrid Laurier University. This amendment names Wilfrid Laurier University in place of Waterloo Lutheran University as a university to which the Act applies.

**An Act to amend  
The University Expropriation Powers Act**

HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of the Province of Ontario, enacts as  
follows:

1. Clause *o* of subsection 1 of section 1 of *The University Expropriation Powers Act*, being chapter 473 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:  

(o) Wilfrid Laurier University; and
2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. This Act may be cited as *The University Expropriation Powers Amendment Act, 1974*. Short title

An Act to amend  
The University Expropriation  
Powers Act

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*1st Reading*

March 5th, 1974

*2nd Reading*

*3rd Reading*

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THE HON. R. WELCH  
Attorney General

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*(Government Bill)*

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# **BILL 1**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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## **An Act to amend The University Expropriation Powers Act**

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THE HON. R. WELCH  
Attorney General

---



**An Act to amend  
The University Expropriation Powers Act**

HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of the Province of Ontario, enacts as

FOLOWS

1. Clause *o* of subsection 1 of section 1 of *The University Expropriation Powers Act*, being chapter 473 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:  
  
    (*o*) Wilfrid Laurier University; and
2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. This Act may be cited as *The University Expropriation Powers Amendment Act, 1974*. Short title

An Act to amend  
The University Expropriation  
Powers Act

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*1st Reading*

March 5th, 1974

*2nd Reading*

April 1st, 1974

*3rd Reading*

April 4th, 1974

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THE HON. R. WELCH  
Attorney General

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act to amend The Denture Therapists Act, 1972**

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**MR. GERMA**

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**TORONTO**

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTES

SECTION 1. The amendment removes the dental hygienist and the dental technician from the Denture Therapist Licensing Board and replaces them with two more denture therapists increasing the number of denture therapists on the Board to four.

SECTION 2. The amendment removes the requirement that the denture therapists work under the supervision of a dental surgeon, it allows the denture therapist to deal directly with the public but only where the patient can produce a certificate of oral health signed by a dental surgeon or a legally qualified medical practitioner.

SECTION 3. The limitation period for commencing a proceeding under clause *b* of subsection 1 of section 16 of the Act is changed from two years to one year.

SECTION 4. The amendment provides that the Lieutenant Governor in Council may make regulations setting fees to be charged by denture therapists.



BILL 2

1974

## An Act to amend The Denture Therapists Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 7 of *The Denture Therapists Act, 1972*, being chapter 163, is repealed and the following substituted therefor:
 

s. 7 (2),  
re-enacted

  - (2) The Board shall be composed of,
 

Composition  
of Board

    - (a) four members representing the public interest;
    - (b) one dental surgeon;
    - (c) four denture therapists who shall be appointed as soon as practicable after the coming into force of this Act.
2. Sections 14 and 15 of the said Act are repealed and the following substituted therefor:
 

s. 14,  
re-enacted;  
s. 15,  
repealed

  14. No denture therapists shall practise intra-oral procedures of dental therapy on a patient except where the patient first obtains a certificate of oral health signed by a dental surgeon or a legally qualified medical practitioner, indicating that it will not be injurious to the health of the patient to proceed with the intra-oral procedures.
 

Certificate  
of oral  
health  
required
3. Subsection 3 of section 16 of the said Act is repealed and the following substituted therefor:
 

s. 16 (3),  
re-enacted

  - (3) No proceeding under clause *b* of subsection 1 shall be commenced more than one year after the time when the subject-matter of the proceeding arose.
 

Idem
4. Section 18 of the said Act is amended by adding thereto the following clause:
 

s. 18,  
amended

(n) prescribing the fees to be charged by denture therapists.

Commence-  
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. This Act may be cited as *The Denture Therapists Amendment Act, 1974*.







The Denture Therapists  
Act, 1972

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*1st Reading*

March 6th, 1974

*2nd Reading*

*3rd Reading*

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MR. GERMA

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*(Private Member's Bill)*



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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act to amend The Dentistry Act**

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**MR. GERMA**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**

#### EXPLANATORY NOTE

This Bill is complementary to *The Denture Therapists Amendment Act, 1974*, which would allow denture therapists to deal directly with the public.

## An Act to amend The Dentistry Act

HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of the Province of Ontario, enacts as  
FOLLOWS:

1. Subsection 1 of section 21a of *The Dentistry Act*, being s. 21a(1),  
chapter 108 of the Revised Statutes of Ontario, 1970, as re-enacted  
enacted by the Statutes of Ontario, 1972, chapter 141,  
section 3, is repealed and the following substituted therefor:

(1) Where a prosthetic denture is supplied, altered or repaired by a dental surgeon, the laboratory costs incurred in respect of the supplying, altering or repairing of the prosthetic denture and all fees for services in respect thereof shall be rendered by the dental surgeon and the account therefor shall show such laboratory costs separately from such fees and separately from all other charges and fees.

2. This Act comes into force on the day it receives Royal Assent.
3. This Act may be cited as *The Dentistry Amendment Act, 1974*.

Commence-  
ment

Short title

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*1st Reading*

March 6th, 1974

*2nd Reading*

*3rd Reading*

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MR. GERMA

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*(Private Member's Bill)*

4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**The Medical Complaints Procedures Act, 1974**

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**MR. SINGER**

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(Corrected 1st Reading Bill)

#### EXPLANATORY NOTE

The Bill provides for procedures whereby persons who believe they have a suit maintainable at law against a doctor, hospital or hospital employee, can be heard before the Medical Complaints Procedures Board established under this Act.



BILL 4

1974

## The Medical Complaints Procedures Act, 1974

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. In this Act,**

Interpre-  
tation

- (a) "Board" means the Medical Complaints Procedures Board;
- (b) "dentist" means a member of The Royal College of Dental Surgeons of Ontario;
- (c) "hospital" means hospital as defined in section 1 of *The Public Hospitals Act*;
- (d) "physician" means a legally qualified medical practitioner.

R.S.O. 1970,  
c. 378

**2.—(1)** A board to be known as the "Medical Complaints Procedures Board" is hereby established.

Board  
established

(2) The Board shall be composed of a chairman, one or more vice-chairmen and as many other members equal in number representative of lawyers, physicians, dentists and persons representative of the public interest, respectively, as the Lieutenant Governor in Council considers proper, all of whom shall be appointed by the Lieutenant Governor in Council.

Composition  
and  
appointment

- (3) The chairman and the one or more vice-chairmen shall each be a Supreme Court judge.

Chairman  
and vice-  
chairman,  
composition

(4) The Lieutenant Governor in Council shall designate one of the vice-chairmen to be alternate chairman.

Alternate  
chairman

**3.** Vacancies in the membership of the Board from any cause may be filled by the Lieutenant Governor in Council

Vacancies

- Quorum**      **4.**—(1) The chairman or a vice-chairman, one member representative of lawyers, one member representative of physicians, one member representative of dentists and one member representative of the public interest constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board.
- Panels**      (2) The chairman or, in the case of his absence from the office of the Board or his inability to act, the alternate chairman shall from time to time assign the members of the Board into panels and may change the composition of such panels at any time.
- May sit in panels**      (3) The Board may sit in two or more panels simultaneously wherever it considers expedient, so long as a quorum of the Board is present in each panel.
- Decisions**      **5.** The decision of the majority of the members of the Board present and constituting a quorum is the decision of the Board, but, if there is no majority, the decision of the chairman or vice-chairman governs.
- Practice and procedure, etc.**      **6.** Subject to section 9, the Board shall determine its own practice and procedure but shall give full opportunity to the parties to any proceedings to present their evidence and make submissions, and the Board may, subject to the approval of the Lieutenant Governor in Council, make rules governing its practice and procedure and the exercise of its powers and prescribing such forms as are considered advisable.
- Powers and duties of Board**      **7.**—(1) The Board shall exercise such powers and perform such duties as are conferred or imposed upon it by or under this Act.
- Specific**      (2) Without limiting the generality of subsection 1, the Board has power,
- (a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as the Board considers requisite to the full investigation and consideration of matters within its jurisdiction in the same manner as a court of record in civil cases;
  - (b) to administer oaths;
  - (c) to accept oral or written evidence;

(d) to authorize any person to do anything that the Board may do under clauses *a* to *c* and to report to the Board thereon;

(e) to authorize the chairman or a vice-chairman to inquire into any complaint, matter or thing within the jurisdiction of the Board, or any part of any of them, and to report to the Board thereon.

**8.**—(1) Any person who has reasonable grounds for believing that he has a suit maintainable at law against any doctor, dentist, hospital or hospital employee as a result of their providing medical or dental services to him, may file with the Board a complaint in the prescribed form. Complaints

(2) Every complaint under this Act shall be commenced within six years from the date of the alleged complaint. Limitation period

**9.** Where a complaint has been filed with the Board, the Board shall cause a hearing to be held as to the complaint and make a determination. Hearing

**10.**—(1) The parties to a hearing before the Board with respect to any complaint are, Parties to hearing

(a) the person named in the complaint as the complainant;

(b) any person named in the complaint and alleged to have caused the matter complained of;

(c) any other person specified by the Board upon such notice as the Board may determine and after such person has been given an opportunity to be heard against his joinder as a party.

(2) A true copy of the complaint shall be annexed to the notice of the hearing that is given to any party. Copy of complaint annexed to notice

(3) A member of the Board hearing a complaint shall not have taken part in any investigation or consideration of the complaint prior to the hearing and shall not communicate directly or indirectly in relation to the complaint with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submission as to the law. Members at hearing not to have taken part in investigation, etc.



- Recording of evidence** (4) The oral evidence taken before a Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- Findings of fact** (5) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.
- 1971, c. 47
- Jurisdiction of Board** (6) Subject to appeal under section 12, the Board has jurisdiction and authority to determine any question of fact or law or both required to be decided in reaching a determination or for the making of any order pursuant to such determination.
- Powers of Board** **11.** The Board, after hearing a complaint, may order any party to rectify any injury caused to any person or to make compensation therefor.
- Appeal from decision of Board** **12.**—(1) Any party to a hearing before a Board may appeal from the decision or order of the Board to the Supreme Court in accordance with the rules of court.
- Record to be filed in court** (2) Where notice of an appeal is served under this section, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision or order appealed from was made which, together with a transcript of the oral evidence taken before the Board if it is not part of the record of the Board, shall constitute the record in the appeal.
- Powers of court** (3) An appeal under this section may be made on questions of law or fact or both and the court may affirm or reverse the decision or order of the Board or direct the Board to make any decision or order that the Board is authorized to make under this Act and the court may substitute its opinion for that of the Board.
- Register of experts** **13.**—(1) The Board shall maintain a register of physicians and dentists who have consented to give independent medical and dental advice to the public and to appear as expert witnesses at a hearing before the Board.
- Registrar, etc.** (2) The Lieutenant Governor in Council may appoint a registrar and such other clerks as are required by the Board to maintain the register referred to in subsection 1 and they shall maintain the register as required by the Board.

(3) The register referred to in subsection 1 shall be available to any person during the normal business hours of the Board. Availability of register

**14.** This Act comes into force on the day it receives Royal Assent. Commencement

**15.** This Act may be cited as *The Medical Complaints Procedures Act, 1974*. Short title

The Medical Complaints  
Procedures Act, 1974

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*1st Reading*

March 6th, 1974

*2nd Reading*

*3rd Reading*

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MR. SINGER

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*(Private Member's Bill)*



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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act to provide for the  
Practice of Dental Prosthesis**

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**MR. NIXON (Brant)**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**

#### EXPLANATORY NOTE

The purpose of this Bill is to allow denturists to take impressions, construct and fit complete upper, lower and partial dentures, dealing directly with the public.

## An Act to provide for the Practice of Dental Prosthesis

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. In this Act,**

Interpre-  
tation

- (a) "Board" means the Denturist Licensing Board established under section 7;
- (b) "dental prosthesis" means,
  - (i) the repairing, relining or rebasing of any complete upper or complete lower denture or any removable partial denture, and
  - (ii) the taking of impressions, bite registrations, tryins, or insertions for the making, producing, construction, furnishing, supplying or fitting of any complete upper or complete lower artificial denture or any upper or lower removable partial denture for the intended wearer thereof;
- (c) "denturist" means a person licensed under this Act to engage in the practice of dental prosthesis;
- (d) "incompetence" means the display of a lack of knowledge, skill or judgment in the professional care of a patient or disregard for the welfare of a patient of a nature or to an extent that demonstrates that the denturist is unfit to continue in the practice of dental prosthesis;
- (e) "Member" means a member of the Denturist Society of Ontario;
- (f) "Minister" means the Minister of Health;
- (g) "professional misconduct" means professional misconduct as defined in the regulations;

(h) "Registrar" means the Registrar of the Denturist Licensing Board appointed under section 3;

(i) "regulations" means the regulations made under this Act.

Administra-  
tion of  
Act

**2.** The Minister of Health is responsible for the administration of this Act.

Registrar of  
Denturist  
Licensing  
Board

**3.** There shall be a Registrar of the Denturist Licensing Board who shall be appointed by the Board with the approval of the Lieutenant Governor in Council.

Practice of  
dental  
prosthesis

**4.** No person, other than a dental surgeon or a person licensed under this Act as a denturist, shall engage in or hold himself out as qualified or entitled to engage in the practice of dental prosthesis, or take or use any name, title, addition or description representing or implying that he is the holder of a licence to practise dental prosthesis.

Issuance  
of licence

**5.—(1)** An applicant for a licence as a denturist is entitled to be issued a licence by the Registrar except where,

(a) the applicant does not have the educational qualifications or experience required by the regulations or fails to pass the examinations set by the Board;

(b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on his practice with integrity and honesty.

Conditions of  
licence

(2) A licence is subject to such terms and conditions as are consented to by the applicant, imposed by the Board or prescribed by the regulations.

Expiry

(3) A licence expires one year after its issue or renewal.

Refusal to  
issue, etc.

**6.—(1)** Subject to section 8, the Registrar may refuse to issue or renew a licence to an applicant where in the Registrar's opinion the applicant is not entitled to a licence under section 5.

Suspension  
or  
revocation

(2) Subject to section 8, the Registrar may suspend or revoke a licence,

(a) for any reason that would disentitle the licensee to be issued a licence under section 5 if he were an applicant;

(b) where the licensee is in breach of a term or condition of his licence;



- (c) where the licensee is in contravention of this Act or the regulations; or
- (d) where the licensee has been guilty of professional misconduct or incompetence.

7.—(1) There shall be a board to be known as the Denturist Licensing Board composed of persons appointed by the Lieutenant Governor in Council, one of whom shall be designated by the Lieutenant Governor in Council as chairman.

Denturist  
Licensing  
Board

(2) The Board shall be composed of,

Composition  
of Board

- (a) two persons representing the public interest;
- (b) one dental surgeon who is a member of The Royal College of Dental Surgeons of Ontario;
- (c) four Members who shall be nominated by the Denturist Society of Ontario.

(3) The appointment of a nominee of the Denturist Society of Ontario shall terminate if such nominee fails to become licensed as a denturist at the earliest opportunity after such appointment, or if the licence of such nominee is suspended or revoked.

(4) Four members of the Board constitute a quorum, at least one of whom shall be a member appointed to represent the public interest.

Quorum

(5) Such officers and employees as are considered necessary for the carrying out of the duties of the Board may be appointed under *The Public Service Act*.

Staff

R.S.O. 1970,  
c. 386

(6) The Board shall,

Duties  
of Board

- (a) conduct the hearings and proceedings under section 8;
- (b) review the operation of this Act and the regulations and make recommendations to the Minister thereon;
- (c) establish, with the approval of the Lieutenant Governor in Council, a course or courses of study for the purpose of qualifying persons in dental prosthesis;
- (d) set or approve examinations for the qualification of applicants for licences;
- (e) perform such other duties as are assigned to it by this Act or the regulations or by any other Act.

Notice of  
proposal to  
refuse or  
revoke

8.—(1) Where the Registrar proposes to refuse to issue a licence or renew a licence or proposes to suspend or revoke a licence, he shall serve notice of his proposal, together with written reasons therefor on the applicant or licensee.

Notice  
requiring  
hearing

(2) A notice under subsection 1 shall inform the applicant or licensee that he is entitled to a hearing by the Board if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Registrar and the Board, and he may so require such a hearing.

Powers of  
Registrar  
where no  
hearing

(3) Where an applicant or licensee does not require a hearing by the Board in accordance with subsection 2, the Registrar may carry out the proposal stated in his notice under subsection 1.

Powers of  
Board

(4) Where an applicant or licensee requires a hearing by the Board in accordance with subsection 2, the Board shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such actions as the Board considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Board may substitute its opinion for that of the Registrar.

Conditions  
of order

(5) The Board may attach such terms and conditions to its order or to the licence as it considers proper to give effect to the purposes of this Act.

Extension  
of times

(6) The Board may extend the time for the giving of notice requiring a hearing by an applicant or licensee under this section either before or after the expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper consequent upon the extension.

Continuation  
of licence  
pending  
renewal

(7) Where before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,

(a) until the renewal is granted; or

(b) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing by the Board has expired and, where a hearing is required, until the Board has made its decision.



9.—(1) The Registrar, the applicant or licensee who has<sup>Parties</sup> required the hearing and such other persons as the Board may specify are parties to proceedings before the Board under this Act.

(2) Notice of hearing under section 8 shall afford the<sup>Notice of hearing</sup> applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

(3) An applicant or licensee who is a party to proceedings<sup>Examination of documentary evidence</sup> under section 8 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

(4) Members of the Board holding a hearing shall not have<sup>Members holding hearing not to have taken part in investigation, etc.</sup> taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

(5) The oral evidence taken before the Board at a hearing<sup>Recording of evidence</sup> shall be recorded and, if so required, copies of a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

(6) The findings of fact of the Board pursuant to a hearing<sup>Findings of fact</sup> shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.<sup>1971, c. 47</sup>

(7) No member of the Board shall participate in a decision<sup>Only members at hearings to participate in decision</sup> of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

(8) Documents and things put in evidence at the hearing<sup>Release of documentary evidence</sup> shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined.

Appeal to  
Court

**10.**—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Supreme Court in accordance with the rules of court.

Minister  
entitled to  
be heard

(2) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Record to  
be filed  
in court

(3) The Board shall certify to the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.

Powers of  
court on  
appeal

(4) An appeal under this section may be made on questions of law or fact or both and the court may confirm or alter the decision of the Board or direct the Registrar to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Registrar or the Board.

No stay  
on appeal

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of.

Service  
of notice

**11.**—(1) Except where otherwise provided, any notice required by this Act to be served may be served personally or by registered mail addressed to the person to whom notice is to be given at his latest known address and, where notice is served by registered mail, the service shall be deemed to have been made on the third day after the day of mailing unless the person to whom notice is given establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice until a later date.

Idem

(2) Notwithstanding subsection 1, the Board may order any other method of service in respect of any matter before the Board.

Immunity  
from civil  
liability

**12.** No action or other proceeding for damages shall be instituted against the Registrar, the Board or any member of the Board or anyone acting under the authority of such Registrar, Board or member, for any act done in good faith in the execution or intended execution of his duty or for any alleged neglect or default in the execution in good faith of his duty.

**13.** No denturist is liable to any action for negligence or malpractice, by reason of professional services requested or rendered, unless such action is commenced within six months from the date when, in the matter complained of, such professional services terminated. Limitation  
for com-  
mencement  
of actions

**14.—(1)** No denturist shall practise dental prosthesis except in, Place of  
practice

- (a) premises approved by the Board as premises within which the denturist may practise dental prosthesis;
- (b) the offices of a dental surgeon or dental clinic; or
- (c) such other place, such as a hospital, home for the aged or private residence in instances where the person requiring the services of such denturist is not reasonably able to attend at such approved premises or the offices of a dental surgeon or a dental clinic.

**(2)** No licensed denturist shall perform any act in the practice of dentistry except within the scope of the practice of dental prosthesis. Acts  
outside  
scope of  
practice

**15.** No denturist shall, Use of  
equipment

- (a) own or operate X-ray equipment; or
- (b) own or operate tools or equipment ordinarily used by a dentist for drilling or extracting teeth; or
- (c) treat or provide medication for the treatment of any disease of the oral cavity.

**16.—(1)** Every person who, Offences

- (a) knowingly, furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations; or
- (b) contravenes any provision of this Act or the regulations,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$500.

**(2)** No proceedings under clause *a* of subsection 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Registrar. Limitation



Idem

(3) No proceedings under clause *b* of subsection 1 shall be commenced more than two years after the time when the subject-matter of the proceeding arose.

Restraining order

(4) Where any person has been convicted of an offence under this Act on two or more occasions, the Board may apply to the Supreme Court for an order directing such person to comply with any provisions of this Act, and upon the application, the judge may make such order as the judge thinks fit and an appeal lies to the Court of Appeal from an order made under this subsection.

Certificate as evidence

**17.** A statement as to,

- (a) the licensing or non-licensing of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Registrar;  
or
- (d) any other matter pertaining to such licensing, non-licensing, filing or non-filing,

purporting to be certified by the Registrar is, without proof of the office or signature of the Registrar, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Regulations

**18.** The Lieutenant Governor in Council may make regulations,

- (a) governing the manner in which denturists conduct their practice and business affairs;
- (b) requiring the certificate of a dental surgeon or a legally qualified medical practitioner as to oral health as a condition to the performance of services in the practice of dental prosthesis;
- (c) defining professional misconduct;
- (d) prescribing the manner in which denturists may describe themselves and their practice;
- (e) prescribing fees to be charged by a denturist for services rendered in the practice of dental prosthesis and providing for a discount of the prescribed fee of

33 $\frac{1}{3}$  per cent when such services are rendered to a person who receives old age security payments or disability allowance;

- (f) governing applications for and issuing of licences to engage in the practice of dental prosthesis and renewals thereof and prescribing terms and conditions of licences;
- (g) requiring the payment of fees on applications for licences and renewals and for the taking of examinations and prescribing the amounts thereof;
- (h) prescribing the qualifications of applicants for licences and renewals and providing for the holding of oral and written examinations set or approved by the Board;
- (i) prescribing procedures that may be performed as incidental to the practice of dental prosthesis;
- (j) requiring licensed denturists to make returns and furnish information to the Registrar;
- (k) requiring any information required to be furnished or contained in any form or return to be verified by affidavit;
- (l) prescribing forms for the purposes of this Act and providing for their use;
- (m) prescribing further procedures respecting matters coming before the Board;
- (n) assigning additional duties to the Board;
- (o) defining the term commercial dental laboratory and prohibiting a denturist from having any proprietary interest therein.

**19.** *The Denture Therapists Act, 1972*, being chapter 163, <sup>1972, c. 163.</sup> is repealed. <sub>repealed</sub>

**20.** This Act comes into force on a day to be named by <sup>Commence-</sup> proclamation of the Lieutenant Governor. <sub>ment</sub>

**21.** This Act may be cited as *The Denturist Act, 1974*. <sup>Short title</sup>

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*1st Reading*

March 7th, 1974

*2nd Reading*

*3rd Reading*

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MR. NIXON (Brant)

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*(Private Member's Bill)*



**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act to amend The Milk Act**

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**THE HON. W. A. STEWART**  
**Minister of Agriculture and Food**

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EXPLANATORY NOTES

SECTION 1. The amendment repeals two redundant subsections and re-enacts a power formerly contained in section 4 of the Act.

SECTION 2. Self-explanatory.

## An Act to amend The Milk Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 4 and 5 of section 4 of *The Milk Act*, being chapter 273 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: s. 4 (4),  
re-enacted  
s. 4 (5),  
repealed

(4) The Commission may, upon any inquiry, investigation or arbitration under clause *a* or *b* of subsection 2, order the payment by any person engaged in producing, processing or marketing milk or milk products, to any other person engaged therein, of moneys, in an amount to be fixed by the Commission, that are payable to such other person by reason of a failure on the part of the person to whom the order is directed to fulfil any obligation imposed upon him by or under this Act or any regulation, plan, award or agreement or by any order or direction of the Commission or a marketing board. Order for  
payment of  
moneys to  
producers,  
etc.

2. The said Act is amended by adding thereto the following section: s. 12b,  
enacted

12b.—(1) Every person engaged in the producing, processing or marketing of milk or milk products, when requested so to do by a field-man appointed for the exercise of the powers and the performance of the duties of the Director, shall, in respect of milk and milk products, produce his books, records and documents and permit inspection thereof and furnish copies thereof or extracts therefrom and permit inspection of his premises and any equipment, milk or milk products therein. Production  
of books,  
etc., to  
field-man

(2) No person shall hinder or obstruct an officer or field-man mentioned in subsection 1 in the course of his duties, furnish him with false information or refuse to furnish him with information. Obstruction  
of field-man

Certificate  
of appoint-  
ment of  
field-man

(3) The production by a field-man mentioned in section 1 of a certificate of his appointment purporting to be signed by the Director shall be accepted by any person engaged in the producing, processing or marketing of milk or milk products as proof of such appointment.

s. 21,  
amended

**3.** Section 21 of the said Act is amended by inserting a "Commission" in the sixth line "the Director or a market board".

Commence-  
ment

**4.** This Act comes into force on the day it receives Royal Assent.

Short title

**5.** This Act may be cited as *The Milk Amendment Act, 1974*.

Section 3 The authority to apply for an injunction is extended to the Director and a marketing board.







An Act to amend  
The Milk Act

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*1st Reading*

March 7th, 1974

*2nd Reading*

*3rd Reading*

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THE HON. W. A. STEWART  
Minister of Agriculture and Food

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*(Government Bill)*

# **BILL 6**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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## **An Act to amend The Milk Act**

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THE HON. W. A. STEWART  
Minister of Agriculture and Food

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## An Act to amend The Milk Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as

OWS

1. Subsections 4 and 5 of section 4 of *The Milk Act*, being chapter 273 of the Revised Statutes of Ontario, 1970, are <sup>s. 4 (4), re-enacted</sup> repealed and the following substituted therefor: <sup>s. 4 (5), repealed</sup>

(4) The Commission may, upon any inquiry, investigation or arbitration under clause *a* or *b* of subsection 2, order the payment by any person engaged in producing, processing or marketing milk or milk products, to any other person engaged therein, of moneys, in an amount to be fixed by the Commission, that are payable to such other person by reason of a failure on the part of the person to whom the order is directed to fulfil any obligation imposed upon him by or under this Act or any regulation, plan, award or agreement or by any order or direction of the Commission or a marketing board. <sup>Order for payment of moneys to producers, etc.</sup>

2. The said Act is amended by adding thereto the following <sup>s. 12b, enacted</sup> section:

12b.—(1) Every person engaged in the producing, processing or marketing of milk or milk products, when requested so to do by a field-man appointed for the exercise of the powers and the performance of the duties of the Director, shall, in respect of milk and milk products, produce his books, records and documents and permit inspection thereof and furnish copies thereof or extracts therefrom and permit inspection of his premises and any equipment, milk or milk products therein. <sup>Production of books, etc., to field-man</sup>

(2) No person shall hinder or obstruct an officer or field-man mentioned in subsection 1 in the course of his duties, furnish him with false information or refuse to furnish him with information. <sup>Obstruction of field-man</sup>

Certificate  
of appoint-  
ment of  
field-man

(3) The production by a field-man mentioned in section 1 of a certificate of his appointment purporting to be signed by the Director shall be accepted by any person engaged in the producing, processing or marketing of milk or milk products as proof of such appointment.

s. 21,  
amended

3. Section 21 of the said Act is amended by inserting after "the Director or a marketing board".

Commence-  
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. This Act may be cited as *The Milk Amendment Act, 1974*.









An Act to amend  
The Milk Act

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*1st Reading*

March 7th, 1974

*2nd Reading*

June 11th, 1974

*3rd Reading*

June 11th, 1974

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THE HON. W. A. STEWART  
Minister of Agriculture and Food

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**The Developmental Services Act, 1974**

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THE HON. R. BRUNELLE  
Minister of Community and Social Services

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#### EXPLANATORY NOTES

The purpose of the Bill is to transfer administrative responsibility for facilities for mentally retarded persons from the Ministry of Health to the Ministry of Community and Social Services.

Some features of the Bill are as follows:

- (1) The Minister may establish and maintain facilities in order to provide for residential care and may purchase assistance and services for persons with a developmental handicap.
- (2) The Lieutenant Governor in Council may appoint a board of governors to maintain and operate any facility established by the Minister.
- (3) Certain premises designated as psychiatric facilities under *The Mental Health Act* are deemed to be discontinued as psychiatric facilities and are continued as facilities for persons with a developmental handicap.
- (4) Provision is made for the automatic discharge of persons who are patients in psychiatric facilities which are being transferred and for their admission as residents in facilities under this Act.
- (5) Part III of *The Mental Health Act* is re-engrossed in order to have the Public Trustee act as committee of the estate of a person who is incapable of managing his own affairs.
- (6) Provision is made for the payment of grants to or for the benefit of persons with a developmental handicap or to any facility or class of facility in which a person with a developmental handicap resides.



BILL 7

1974

## The Developmental Services Act, 1974

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1. In this Act,

Interpre-  
tation

- (a) "administrator" means the person who is responsible for the operation and management of a facility;
- (b) "attending physician" means the physician to whom responsibility for the observation, care and treatment of a resident has been assigned;
- (c) "developmental handicap" means a condition of mental impairment present or occurring during a person's formative years, that is associated with limitations in adaptive behaviour;
- (d) "Director" means a person appointed as such, for all or any of the purposes of this Act;
- (e) "facility" means any place designated by the regulations in which assistance and services or either of them are provided for persons with a developmental handicap;
- (f) "Minister" means the Minister of Community and Social Services;
- (g) "Ministry" means the Ministry of Community and Social Services;
- (h) "physician" means a legally qualified medical practitioner;
- (i) "regulations" means the regulations made under this Act; and

(j) "resident" means a person with a developmental handicap who resides in a facility.

Facilities  
established

**2.—(1)** The Minister may establish, operate and maintain one or more facilities and may furnish such services and assistance as he considers necessary upon such terms and conditions as he sees fit.

Purchase of  
assistance  
and services

**(2)** The Minister may by written agreement or otherwise purchase from any person, services and assistance for or on behalf of persons with a developmental handicap or believed to have a developmental handicap and may direct payment of expenditures as are necessary for these purposes.

Administra-  
tion vested in  
Director

**3.—(1)** Except where a board has been appointed under subsection 2, the administration of every facility established, or operated by the Minister, is vested in the Director.

Board of  
governors  
appointed

**(2)** The Lieutenant Governor in Council may appoint a board of governors to maintain and operate any facility operated and maintained under subsection 1 of section 2, and every such board is a body corporate.

R.S.O. 1970,  
c. 89, not to  
apply

**(3)** *The Corporations Act* does not apply to a board appointed under subsection 2.

Administra-  
tor to  
superintend

**(4)** Subject to subsection 1, the administrator shall superintend the operation and management of all the affairs of the facility for which he is appointed and shall supervise all officers, clerks, employees and all the residents therein.

Minister,  
Director or  
administra-  
tor may  
appoint  
persons

**(5)** Where this Act or the regulations require or authorize the Minister, Director or administrator to do any act, such act may be done by any person whom the Minister, Director or administrator, as the case may be, appoints.

Patients  
deemed  
discharged  
R.S.O. 1970,  
c. 269

**4.—(1)** Every person with a developmental handicap who on the 1st day of April, 1974 resides in a psychiatric facility under the regulations to *The Mental Health Act* shall, upon the designating of all or any part of the psychiatric facility as a facility under this Act, be deemed to have been discharged as a patient under the provisions of *The Mental Health Act* and admitted as a resident pursuant to the provisions of this Act.

Certificate  
of incom-  
petence  
deemed  
issued and  
received

**(2)** Where the Public Trustee was committee of the estate of a person who is deemed to have been discharged under subsection 1, a certificate of incompetence shall be deemed to have been issued under subsection 3 of section 10 and received by the Public Trustee.

5. Any premises or part or parts thereof which were designated as a psychiatric facility under the regulations to *The Mental Health Act*, and which were operated by the Minister of Health shall, upon being designated as a facility under this Act, be operated and maintained by the Minister and the administration thereof shall, subject to subsection 2 of section 3, vest in the Director.

Designated facilities vest in Director  
R.S.O. 1970, c. 209

6. Where a facility was incorporated under another Act and is designated under this Act, the designation shall not be deemed to affect the continuation of the facility's status as a corporation.

Corporate status continued

7. Any person who,

Persons may apply for admission to facilities

(a) believes he is a person with a developmental handicap; or

(b) wishes to apply on behalf of a person whom he believes is a person with a developmental handicap,

may apply for admission to a facility or for any item of assistance or service which the Minister may make available to persons with a developmental handicap.

8.—(1) No action, prosecution or other proceeding for damages for anything done or omitted to be done in pursuance or intended pursuance of this Act or the regulations shall be commenced against the Director, a Board appointed under subsection 2 of section 3 or any officer or employee of a facility for any act done in good faith in the execution or intended execution of his or its duty or for any alleged neglect or default in the execution in good faith of his or its duty.

Protection from personal liability

(2) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of *The Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection 1 had not been enacted.

Crown not relieved of liability  
R.S.O. 1970, c. 365

9. No action lies against the Director or any officer or employee of a facility for any tort of any resident.

Protection from tort liability re resident

10.—(1) Forthwith upon the admission of a resident to a facility, he shall be examined by a physician to determine whether he is competent to manage his estate.

Examination as to competency upon admission



Idem,  
at any time (2) The attending physician may examine a resident at any time to determine whether he is competent to manage his estate.

Certificate  
of in-  
competence (3) If, after an examination under subsection 1 or 2, the examining physician is of the opinion that the resident is not competent to manage his estate, he shall issue a certificate of incompetence in the prescribed form and the administrator shall forward the certificate to the Public Trustee.

Idem,  
exceptional  
circum-  
stances (4) Where circumstances are such that the Public Trustee should immediately assume management of an estate, the administrator shall notify the Public Trustee forthwith that a certificate of incompetence has been issued.

Appointment  
by resident (5) Notwithstanding that no certificate of incompetence has been issued in his case, a resident may, at any time, in writing signed and sealed by him, appoint the Public Trustee as committee of his estate while he is a resident in a facility, and any such appointment may be revoked by the resident at any time in writing signed and sealed by him.

Where Public  
Trustee is  
committee  
at time of  
admission  
of resident (6) Where the Public Trustee is committee of a person with a developmental handicap or believed to have a developmental handicap at the time of his admission to a facility, a certificate of incompetence shall be deemed to have been issued and forwarded to the Public Trustee under subsection 3.

Where section  
does not apply  
R.S.O. 1970,  
c. 271 (7) This section does not apply to a resident whose estate is under committeehip under *The Mental Incompetency Act*.

Where Public  
Trustee may  
replace  
committee  
appointed  
under  
R.S.O. 1970,  
c. 271 **11.**—(1) Notwithstanding that under *The Mental Incompetency Act* a person other than the Public Trustee has been appointed as the committee of the estate of a resident, the Supreme Court may at any time upon the application of the Public Trustee appoint him as committee in the stead of the person appointed under that Act, and on appointment the Public Trustee has and may exercise all the rights and powers conferred upon him by this Act with regard to the management of estates.

Duty of  
Public  
Trustee  
where  
committee  
appointed  
under  
R.S.O. 1970,  
c. 271 (2) If at any time a committee of the estate of a resident is appointed under *The Mental Incompetency Act*, the Public Trustee thereupon ceases to be committee and shall account for and transfer to the committee so appointed the estate of the resident that has come into his hands.

Consent of  
Public  
Trustee  
to order (3) An order shall not be made under *The Mental Incompetency Act* for the appointment of a committee of a resident

without the consent of the Public Trustee unless seven days notice of the application has been given to him.

(4) The acts of the Public Trustee while committee of a resident are not rendered invalid by the making of an order appointing another committee. Acts of Public Trustee not affected

**12.** The Public Trustee is committee of the estate of a resident and shall assume management thereof, Where Public Trustee committee

- (a) upon receipt of a certificate of incompetence;
- (b) upon receipt of notice under subsection 4 of section 10; or
- (c) upon receipt of an appointment under subsection 5 of section 10.

**13.** Upon the Public Trustee becoming committee of the estate of a resident, the administrator shall forthwith forward a statement of the financial affairs of the resident to the Public Trustee. Financial statement

**14.** The attending physician may, after examining a resident for that purpose, cancel the resident's certificate of incompetence, and in such case the administrator shall forward a notice of cancellation in the prescribed form to the Public Trustee. Cancellation of certificate of incompetence

**15.**—(1) A resident who is about to be discharged from a facility and whose estate is being managed by the Public Trustee shall be examined by his attending physician to determine whether or not he will, upon discharge, be competent to manage his estate. Examination as to competency before discharge

(2) Where the attending physician is of the opinion, after the examination referred to in subsection 1, that the resident will not, upon discharge, be competent to manage his estate, he shall issue a notice of continuance in the prescribed form and the administrator shall forward the notice to the Public Trustee. Notice of continuance

**16.** The Public Trustee ceases to be committee of the estate of a resident and shall relinquish management thereof, Where Public Trustee ceases to be committee

- (a) upon receipt of notice of cancellation of the certificate of incompetence of the resident;
- (b) upon receipt of a revocation in writing, signed and sealed by the resident, of an appointment referred to in subsection 5 of section 10;

- (c) upon receipt of notice of discharge of the resident, unless he has at that time received a notice of continuance; or
- (d) upon the expiration of three months after the resident's discharge, where a notice of continuance was received.

Application  
to county or  
district court  
as to  
competency

**17.**—(1) Where a certificate of incompetence or a notice of continuance has been issued, the resident or any person acting on his behalf, may apply to the county or district court of the county or district in which the resident resides at the time of the application for a review of the decision.

Application  
by origina-  
ting notice  
of motion

(2) The application shall be made by originating notice of motion.

Service and  
practice

(3) The notice of motion shall be served upon,

(a) the Minister; and

(b) the administrator of the facility in which the resident resides,

and the practice and procedure of the court pertaining to applications by originating notice of motion applies, so far as it is applicable, to an application under this section, except as otherwise provided by this section.

Further  
evidence

(4) In addition to the evidence adduced by affidavit, the court may direct such further evidence to be given as it considers necessary.

Court may  
affirm or  
rescind  
decision

(5) On a review under this section, the court may affirm the decision of the person issuing the certificate of incompetence or may rescind it or refer the matter back to the administrator to be disposed of in accordance with such directions as the court considers proper under this Act and the regulations, and the administrator shall give effect to any direction given by the court under this section.

Leave of  
judge to bring  
action

**18.** No person, other than the Public Trustee, shall bring an action as next friend of a person of whose estate the Public Trustee is committee under this Act without the leave of a judge of the court in which the action is intended to be brought, and the Public Trustee shall be served with notice of the application for such leave.

Service of  
documents

**19.** When an action or proceeding is brought or taken against a resident in a facility for whom a committee has not been appointed by the court and such action or proceeding



is in connection with the estate of such person, the writ or other document by which the proceedings are commenced and any other document requiring personal service shall be served upon the Public Trustee endorsed with a written statement of the name of the facility in which the resident is located, and shall also be served upon the resident, unless in the opinion of the attending physician personal service upon the resident would cause serious harm to him by reason of his developmental handicap, in which case it shall also be served upon the administrator.

**20.** The Public Trustee as committee of a resident has and may exercise all the rights and powers with regard to the estate of the resident that the resident would have if of full age and of sound and disposing mind.

Rights and powers of Public Trustee as committee

**21.** A person of whose estate the Public Trustee is committee under this Act and his heirs, executors, administrators, next of kin, legatees, devisees and assigns shall have the same interest in any money or other property, real or personal, arising from a sale, mortgage, exchange or other disposition by the Public Trustee acting as such committee as they would have had in the property the subject of the sale, mortgage, exchange or other disposition if no sale, mortgage, exchange or other disposition had been made, and the surplus money or property shall be of the same nature as the property sold, mortgaged, exchanged or disposed of.

Nature of proceeds of sale, etc.

**22.** Upon the Public Trustee becoming committee of the estate of a person under this Act, every power of attorney of such person is void.

When powers of attorney void

**23.** Any recital in a lease, mortgage or conveyance that a person is a resident in a facility and that the Public Trustee is his committee is admissible in evidence as *prima facie* proof of the facts recited.

Recitals in documents

**24.** The Powers conferred upon the Public Trustee as committee of the estate of a resident may be exercised,

Purposes for which powers of Public Trustee may be exercised

- (a) until the committee ship is terminated notwithstanding that the resident has been discharged from the facility;
- (b) to carry out and complete any transaction entered into by the resident before he became a resident in a facility;
- (c) to carry out and complete any transaction entered into by the committee notwithstanding that the

committeeship has been terminated or that the resident has died after the transaction was commenced.

Lien of  
Public  
Trustee for  
costs, etc.

**25.**—(1) The costs, charges and expenses of the Public Trustee, including the costs, charges and expenses of or arising from or out of the passing of his accounts, whether before or after the termination of the committeeship or the death of the person of whose estate he is committee under this Act, and any moneys advanced or liability incurred by him for or on behalf of such person or for the maintenance of such person's family are a lien upon the real and personal property of such person.

Notice of  
lien in case  
of real  
property

(2) In the case of real property, the Public Trustee may register in the proper land registry office a certificate under his hand and seal of office giving notice of the lien claimed and the real property against which it is claimed.

Withholding  
of moneys to  
secure costs

(3) Where the Public Trustee is proceeding to have his accounts passed after the termination of the committee-ship or the death of a person referred to in subsection 1, the Public Trustee may withhold sufficient moneys from the person's estate to adequately secure the costs of or arising from or out of the passing of such accounts.

When gifts,  
etc., deemed  
fraudulent

**26.** Every gift, grant, alienation, conveyance or transfer of property made by a person who is or becomes a resident shall be deemed to be fraudulent and void as against the Public Trustee if the same was not made for full and valuable consideration actually paid or sufficiently secured to such person or if the purchaser or transferee had notice of his mental incompetence.

Death of  
resident

**27.** Upon the death of a resident and until letters probate of the will or letters of administration to the estate of the resident are granted to a person other than the Public Trustee and notice thereof is given to the Public Trustee, the Public Trustee may continue to manage the estate and exercise with respect thereto the powers that an executor would have if the property were devised or bequeathed to him in trust for payment of debts and distribution of the residue.

Passing of  
accounts

**28.** The Public Trustee is liable to render an account as to the manner in which he has managed the property of the resident in the same way and subject to the same responsibility as any trustee, guardian or committee duly appointed for a similar purpose may be called upon to account, and is entitled from time to time to bring in



and pass his accounts and tax costs in like manner as a trustee but is personally liable only for wilful misconduct.

**29.** For the services rendered by the Public Trustee as committee of a resident, he may be allowed compensation not exceeding the amount that a trustee would be allowed for like services, but in cases of poverty or hardship the Public Trustee may forego any claim for compensation.

Compensation of Public Trustee

**30.**—(1) Where a person with respect to whom a notice of continuance has been received by the Public Trustee may not, based upon a report of the attending physician or other evidence available to the Public Trustee, be competent to manage his estate upon the termination of the committee-ship or a person discharged has refused or neglected to take his property or any part thereof from the Public Trustee, the Public Trustee may apply to the Supreme Court for directions as to the disposal of such property, and the court may make such order as it considers just, and may in its discretion order that the Public Trustee continue to manage the estate of such person with all the rights and powers that the Public Trustee would have had under this Act if the committee-ship had not been terminated.

Application for directions

(2) Where the Public Trustee continues to manage an estate under subsection 1, the Supreme Court may, upon application, make such further order as it considers just and may, in its discretion, order that the management of the estate by the Public Trustee be relinquished.

Further orders

**31.** The Public Trustee shall, out of the money in his hands belonging to a resident for whom he is committee, pay the proper charges for his maintenance in the facility in which he is a resident, and he may also pay such sums as he considers advisable to the resident's family or other persons dependent upon him, and the payments for the maintenance of the family and other dependants may be made notwithstanding that such payments may prevent the payment of maintenance that otherwise would be due from the resident.

Payments out of resident's moneys

**32.** If there is any money in court to the credit of a resident, it shall be paid out to the Public Trustee upon his written application, and it is not necessary to obtain an order of the court or a judge for such purpose.

Payments out of moneys in court

**33.** Nothing in this Act makes it the duty of the Public Trustee to institute proceedings on behalf of a resident or to intervene in respect of his estate or any part thereof or to take charge of any of his property.

What Public Trustee not required to do

Patients  
in another  
province with  
estate in  
Ontario

**34.**—(1) Where a person who is suffering from a developmental handicap resides in another province or territory of Canada and has estate situate in Ontario, the Lieutenant Governor in Council may appoint the official of the other province or territory who is charged with the duty of managing the estate of such person in the other province or territory to be committee of the estate in Ontario.

Order  
conclusive

(2) The order making the appointment is conclusive proof that all the conditions precedent to the appointment have been fulfilled.

Rights and  
powers of  
appointee

(3) The appointee under such an order possesses the same rights, powers, privileges and immunities as are conferred by this Act upon the Public Trustee and he is subject to the same obligations and shall perform the same duties.

Minister may  
designate  
officers

**35.**—(1) The Minister may appoint officers of the Ministry or other persons who shall advise and assist the administrator in all matters pertaining to persons with a developmental handicap and who shall have such other duties as are assigned to them by this Act or the regulations.

Powers

(2) Any such officer or person may at any time, and shall be permitted so to do by the authorities thereat, visit and inspect any facility and, in so doing, may interview residents, examine books, records and other documents relating to residents, examine the condition of the facility and its equipment, inquire into the adequacy of its staff, the range of services provided and any other matter considered relevant to the care of residents by such officer or person.

Inspection

(3) The books of account and any other records of every facility or class of facility shall be open at all reasonable times for inspection by an officer or person appointed under subsection 1.

Provincial  
aid

**36.** The Minister may direct payment of provincial aid to or for the benefit of persons with a developmental handicap, or believed to have a developmental handicap, or to or for any facility or class of facility in which a person with a developmental handicap resides, in such amounts and under such conditions as are prescribed by the regulations.

Moneys

**37.** The moneys required for the purposes of this Act shall be paid out of moneys that are appropriated therefor by the Legislature.

Regulations

**38.** The Lieutenant Governor in Council may make regulations,

- (a) designating facilities or classes of facilities to which this Act and the regulations apply and limiting, restricting or exempting any such facility or class of facility from the application of any part of the regulations;
- (b) respecting the construction, renovation, alteration and maintenance of any facility or class of facility;
- (c) respecting the management, conduct, operation, use and control of any facility or class of facility;
- (d) prescribing the accommodation, facilities, equipment and services in any facility or class of facility;
- (e) providing for the officers and staff and prescribing their duties and qualifications in any facility or class of facility;
- (f) prescribing the procedure for selecting and evaluating the site of any facility or class of facility and for the development and preparation of plans for the site and buildings and for the information to be contained in such plans;
- (g) providing for the approval of facilities within a class and prescribing the terms and conditions upon which any such facility may be approved for persons with a developmental handicap;
- (h) for the purposes of this Act and the regulations, defining "assistance" and "services" and prescribing classes of services and classes of assistance and the items, services and payments to be included in any such definition or in any such class of services or class of assistance and prescribing the terms and conditions upon which such services or assistance or any class thereof may be provided;
- (i) prescribing the classes of grants or allowances by way of provincial aid to or for the benefit of persons with a developmental handicap or believed to have a developmental handicap, or to or for any facility or class of facility and the methods of determining the amounts of such grants or allowances, the terms and conditions for the payment thereof and providing for the manner, times and methods of payment and the suspension and withholding of grants and allowances and for the making of deductions from grants and allowances;



- (j) prescribing the persons or classes of persons who may be eligible for services and assistance or any class thereof and prescribing the terms and conditions of eligibility for services and assistance or any classes thereof requiring information to be submitted and providing for the investigation and determination of eligibility for such services or assistance or any classes thereof;
- (k) prescribing the charges that shall be made for the provision of services and assistance or any class thereof to a person with a developmental handicap or believed to have a developmental handicap and limiting, restricting or exempting the persons or any class of persons to whom such charges shall be made;
- (l) prescribing the persons and authorities or classes of persons or authorities that are liable for or exempted from the cost of services and assistance or any class of services or assistance to persons with a developmental handicap or believed to have a developmental handicap and prescribing rules for determining the amounts to be contributed towards the cost of such services or assistance or class thereof by the person or authority or class of person or authority who are liable therefor;
- (m) providing for the recovery of any sum as a debt due to the Crown or to the board of any facility in any court of competent jurisdiction from any person or his estate or authority liable therefor, of the cost or any part of the cost of any services or assistance or any class thereof provided to or for a person with a developmental handicap or believed to have a developmental handicap;
- (n) providing for an agreement to be entered into with or on behalf of any resident or class of resident in a facility or in any class of facility, for the administrator in charge of the facility or class of facility, to receive, hold and administer real and personal property of the resident or class of resident in trust for certain purposes, and providing for the terms and conditions of trust upon which the administrator may receive and hold such property;
- (o) providing for the establishment of in-service training programs for members of the staff of any facility or class of facility;



- (p) providing for any parent or guardian of a child with a developmental handicap or believed to have a developmental handicap to enter into agreement with the Minister or any child welfare authority appointed by the Minister, for the purposes of providing services or assistance or any class thereof, and providing for the terms and conditions in any such agreement upon which such services or assistance or any class thereof may be provided;
- (q) governing applications for payment of grants or allowances under this Act;
- (r) prescribing the records and accounts to be kept in respect of facilities or class of facilities, the claims and returns to be made to the Minister and the method, time and manner in which such claims and returns are to be made;
- (s) prescribing additional duties of officers or persons appointed by the Minister under section 35;
- (t) respecting the examination of persons and the admission, transfer, discharge and placement of residents;
- (u) prescribing rules governing the operation, management functions and powers of boards appointed by the Lieutenant Governor in Council under subsection 2 of section 3; and
- (v) prescribing forms and providing for their use.

**39.**—(1) This Act comes into force on the 1st day of <sup>Commence-</sup>April, 1974. <sup>ment</sup>

(2) Any regulations made under section 38 and filed <sup>Idem</sup> under *The Regulations Act* before the 31st day of December, <sup>R.S.O. 1970,</sup> 1974 may be made to apply retroactively to a date not <sup>c. 410</sup> earlier than the 1st day of April, 1974.

**40.** This Act may be cited as *The Developmental Services* <sup>Short title</sup> Act, 1974.

*1st Reading*

March 7th, 1974

*2nd Reading*

*3rd Reading*

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THE HON. R. BRUNELLE  
Minister of Community and  
Social Services

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*(Government Bill)*

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# **BILL 7**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **The Developmental Services Act, 1974**

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**THE HON. R. BRUNELLE**  
**Minister of Community and Social Services**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**



BILL 7

1974

## The Developmental Services Act, 1974

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1. In this Act,

Interpre-  
tation

- (a) "administrator" means the person who is responsible for the operation and management of a facility;
- (b) "attending physician" means the physician to whom responsibility for the observation, care and treatment of a resident has been assigned;
- (c) "developmental handicap" means a condition of mental impairment present or occurring during a person's formative years, that is associated with limitations in adaptive behaviour;
- (d) "Director" means a person appointed as such, for all or any of the purposes of this Act;
- (e) "facility" means any place designated by the regulations in which assistance and services or either of them are provided for persons with a developmental handicap;
- (f) "Minister" means the Minister of Community and Social Services;
- (g) "Ministry" means the Ministry of Community and Social Services;
- (h) "physician" means a legally qualified medical practitioner;
- (i) "regulations" means the regulations made under this Act; and



- (j) "resident" means a person with a developmental handicap who resides in a facility.

Facilities  
established

2.—(1) The Minister may establish, operate and maintain one or more facilities and may furnish such services and assistance as he considers necessary upon such terms and conditions as he sees fit.

Purchase of  
assistance  
and services

(2) The Minister may by written agreement or otherwise purchase from any person, services and assistance for or on behalf of persons with a developmental handicap or believed to have a developmental handicap and may direct payment of expenditures as are necessary for these purposes.

Administra-  
tion vested in  
Director

3.—(1) Except where a board has been appointed under subsection 2, the administration of every facility established, or operated by the Minister, is vested in the Director.

Board of  
governors  
appointed

(2) The Lieutenant Governor in Council may appoint a board of governors to maintain and operate any facility operated and maintained under subsection 1 of section 2, and every such board is a body corporate.

R.S.O. 1970,  
c. 89, not to  
apply

(3) *The Corporations Act* does not apply to a board appointed under subsection 2.

Administra-  
tor to  
superintend

(4) Subject to subsection 1, the administrator shall superintend the operation and management of all the affairs of the facility for which he is appointed and shall supervise all officers, clerks, employees and all the residents therein.

Minister,  
Director or  
administra-  
tor may  
appoint  
persons

(5) Where this Act or the regulations require or authorize the Minister, Director or administrator to do any act, such act may be done by any person whom the Minister, Director or administrator, as the case may be, appoints.

Patients  
deemed  
discharged  
R.S.O. 1970,  
c. 269

4.—(1) Every person with a developmental handicap who on the 1st day of April, 1974 resides in a psychiatric facility under the regulations to *The Mental Health Act* shall, upon the designating of all or any part of the psychiatric facility as a facility under this Act, be deemed to have been discharged as a patient under the provisions of *The Mental Health Act* and admitted as a resident pursuant to the provisions of this Act.

Certificate  
of incom-  
petence  
deemed  
issued and  
received

(2) Where the Public Trustee was committee of the estate of a person who is deemed to have been discharged under subsection 1, a certificate of incompetence shall be deemed to have been issued under subsection 3 of section 10 and received by the Public Trustee.



5. Any premises or part or parts thereof which were designated as a psychiatric facility under the regulations to *The Mental Health Act*, and which were operated by the Minister of Health shall, upon being designated as a facility under this Act, be operated and maintained by the Minister and the administration thereof shall, subject to subsection 2 of section 3, vest in the Director.

Designated facilities vest in Director  
R.S.O. 1970, c. 269

6. Where a facility was incorporated under another Act and is designated under this Act, the designation shall not be deemed to affect the continuation of the facility's status as a corporation.

Corporate status continued

7. Any person who,

Persons may apply for admission to facilities

(a) believes he is a person with a developmental handicap; or

(b) wishes to apply on behalf of a person whom he believes is a person with a developmental handicap,

may apply for admission to a facility or for any item of assistance or service which the Minister may make available to persons with a developmental handicap.

8.—(1) No action, prosecution or other proceeding for damages for anything done or omitted to be done in pursuance or intended pursuance of this Act or the regulations shall be commenced against the Director, a Board appointed under subsection 2 of section 3 or any officer or employee of a facility for any act done in good faith in the execution or intended execution of his or its duty or for any alleged neglect or default in the execution in good faith of his or its duty.

Protection from personal liability

(2) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of *The Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection 1 had not been enacted.

Crown not relieved of liability  
R.S.O. 1970, c. 365

9. No action lies against the Director or any officer or employee of a facility for any tort of any resident.

Protection from tort liability re resident

10.—(1) Forthwith upon the admission of a resident to a facility, he shall be examined by a physician to determine whether he is competent to manage his estate.

Examination as to competency upon admission

Idem,  
at any time (2) The attending physician may examine a resident at any time to determine whether he is competent to manage his estate.

Certificate  
of in-  
competence (3) If, after an examination under subsection 1 or 2, the examining physician is of the opinion that the resident is not competent to manage his estate, he shall issue a certificate of incompetence in the prescribed form and the administrator shall forward the certificate to the Public Trustee.

Idem,  
exceptional  
circum-  
stances (4) Where circumstances are such that the Public Trustee should immediately assume management of an estate, the administrator shall notify the Public Trustee forthwith that a certificate of incompetence has been issued.

Appointment  
by resident (5) Notwithstanding that no certificate of incompetence has been issued in his case, a resident may, at any time, in writing signed and sealed by him, appoint the Public Trustee as committee of his estate while he is a resident in a facility, and any such appointment may be revoked by the resident at any time in writing signed and sealed by him.

Where Public  
Trustee is  
committee  
at time of  
admission  
of resident (6) Where the Public Trustee is committee of a person with a developmental handicap or believed to have a developmental handicap at the time of his admission to a facility, a certificate of incompetence shall be deemed to have been issued and forwarded to the Public Trustee under subsection 3.

Where section  
does not apply,  
R.S.O. 1970,  
c. 271 (7) This section does not apply to a resident whose estate is under committeehip under *The Mental Incompetency Act*.

Where Public  
Trustee may  
replace  
committee  
appointed  
under  
R.S.O. 1970,  
c. 271 **11.—**(1) Notwithstanding that under *The Mental Incompetency Act* a person other than the Public Trustee has been appointed as the committee of the estate of a resident, the Supreme Court may at any time upon the application of the Public Trustee appoint him as committee in the stead of the person appointed under that Act, and on appointment the Public Trustee has and may exercise all the rights and powers conferred upon him by this Act with regard to the management of estates.

Duty of  
Public  
Trustee  
where  
committee  
appointed  
under  
R.S.O. 1970,  
c. 271 (2) If at any time a committee of the estate of a resident is appointed under *The Mental Incompetency Act*, the Public Trustee thereupon ceases to be committee and shall account for and transfer to the committee so appointed the estate of the resident that has come into his hands.

Consent of  
Public  
Trustee  
to order (3) An order shall not be made under *The Mental Incompetency Act* for the appointment of a committee of a resident

without the consent of the Public Trustee unless seven days notice of the application has been given to him.

(4) The acts of the Public Trustee while committee of a resident are not rendered invalid by the making of an order appointing another committee. Acts of Public Trustee not affected

**12.** The Public Trustee is committee of the estate of a resident and shall assume management thereof, Where Public Trustee committee

- (a) upon receipt of a certificate of incompetence;
- (b) upon receipt of notice under subsection 4 of section 10; or
- (c) upon receipt of an appointment under subsection 5 of section 10.

**13.** Upon the Public Trustee becoming committee of the estate of a resident, the administrator shall forthwith forward a statement of the financial affairs of the resident to the Public Trustee. Financial statement

**14.** The attending physician may, after examining a resident for that purpose, cancel the resident's certificate of incompetence, and in such case the administrator shall forward a notice of cancellation in the prescribed form to the Public Trustee. Cancellation of certificate of incompetence

**15.**—(1) A resident who is about to be discharged from a facility and whose estate is being managed by the Public Trustee shall be examined by his attending physician to determine whether or not he will, upon discharge, be competent to manage his estate. Examination as to competency before discharge

(2) Where the attending physician is of the opinion, after the examination referred to in subsection 1, that the resident will not, upon discharge, be competent to manage his estate, he shall issue a notice of continuance in the prescribed form and the administrator shall forward the notice to the Public Trustee. Notice of continuance

**16.** The Public Trustee ceases to be committee of the estate of a resident and shall relinquish management thereof, Where Public Trustee ceases to be committee

- (a) upon receipt of notice of cancellation of the certificate of incompetence of the resident;
- (b) upon receipt of a revocation in writing, signed and sealed by the resident, of an appointment referred to in subsection 5 of section 10;



(c) upon receipt of notice of discharge of the resident, unless he has at that time received a notice of continuance; or

(d) upon the expiration of three months after the resident's discharge, where a notice of continuance was received.

Application  
to county or  
district court  
as to  
competency

**17.**—(1) Where a certificate of incompetence or a notice of continuance has been issued, the resident or any person acting on his behalf, may apply to the county or district court of the county or district in which the resident resides at the time of the application for a review of the decision.

Application  
by origina-  
ting notice  
of motion

(2) The application shall be made by originating notice of motion.

Service and  
practice

(3) The notice of motion shall be served upon,

(a) the Minister; and

(b) the administrator of the facility in which the resident resides,

and the practice and procedure of the court pertaining to applications by originating notice of motion applies, so far as it is applicable, to an application under this section, except as otherwise provided by this section.

Further  
evidence

(4) In addition to the evidence adduced by affidavit, the court may direct such further evidence to be given as it considers necessary.

Court may  
affirm or  
rescind  
decision

(5) On a review under this section, the court may affirm the decision of the person issuing the certificate of incompetence or may rescind it or refer the matter back to the administrator to be disposed of in accordance with such directions as the court considers proper under this Act and the regulations, and the administrator shall give effect to any direction given by the court under this section.

Leave of  
judge to bring  
action

**18.** No person, other than the Public Trustee, shall bring an action as next friend of a person of whose estate the Public Trustee is committee under this Act without the leave of a judge of the court in which the action is intended to be brought, and the Public Trustee shall be served with notice of the application for such leave.

Service of  
documents

**19.** When an action or proceeding is brought or taken against a resident in a facility for whom a committee has not been appointed by the court and such action or proceeding

is in connection with the estate of such person, the writ or other document by which the proceedings are commenced and any other document requiring personal service shall be served upon the Public Trustee endorsed with a written statement of the name of the facility in which the resident is located, and shall also be served upon the resident, unless in the opinion of the attending physician personal service upon the resident would cause serious harm to him by reason of his developmental handicap, in which case it shall also be served upon the administrator.

**20.** The Public Trustee as committee of a resident has and may exercise all the rights and powers with regard to the estate of the resident that the resident would have if of full age and of sound and disposing mind. Rights and powers of Public Trustee as committee

**21.** A person of whose estate the Public Trustee is committee under this Act and his heirs, executors, administrators, next of kin, legatees, devisees and assigns shall have the same interest in any money or other property, real or personal, arising from a sale, mortgage, exchange or other disposition by the Public Trustee acting as such committee as they would have had in the property the subject of the sale, mortgage, exchange or other disposition if no sale, mortgage, exchange or other disposition had been made, and the surplus money or property shall be of the same nature as the property sold, mortgaged, exchanged or disposed of. Nature of proceeds of sale, etc.

**22.** Upon the Public Trustee becoming committee of the estate of a person under this Act, every power of attorney of such person is void. When powers of attorney void

**23.** Any recital in a lease, mortgage or conveyance that a person is a resident in a facility and that the Public Trustee is his committee is admissible in evidence as *prima facie* proof of the facts recited. Recitals in documents

**24.** The Powers conferred upon the Public Trustee as committee of the estate of a resident may be exercised. Purposes for which powers of Public Trustee may be exercised

- (a) until the committee ship is terminated notwithstanding that the resident has been discharged from the facility;
- (b) to carry out and complete any transaction entered into by the resident before he became a resident in a facility;
- (c) to carry out and complete any transaction entered into by the committee notwithstanding that the

committeeship has been terminated or that the resident has died after the transaction was commenced.

Lien of  
Public  
Trustee for  
costs, etc.

**25.—**(1) The costs, charges and expenses of the Public Trustee, including the costs, charges and expenses of or arising from or out of the passing of his accounts, whether before or after the termination of the committeeship or the death of the person of whose estate he is committee under this Act, and any moneys advanced or liability incurred by him for or on behalf of such person or for the maintenance of such person's family are a lien upon the real and personal property of such person.

Notice of  
lien in case  
of real  
property

(2) In the case of real property, the Public Trustee may register in the proper land registry office a certificate under his hand and seal of office giving notice of the lien claimed and the real property against which it is claimed.

Withholding  
of moneys to  
secure costs

(3) Where the Public Trustee is proceeding to have his accounts passed after the termination of the committee-ship or the death of a person referred to in subsection 1, the Public Trustee may withhold sufficient moneys from the person's estate to adequately secure the costs of or arising from or out of the passing of such accounts.

When gifts,  
etc., deemed  
fraudulent

**26.** Every gift, grant, alienation, conveyance or transfer of property made by a person who is or becomes a resident shall be deemed to be fraudulent and void as against the Public Trustee if the same was not made for full and valuable consideration actually paid or sufficiently secured to such person or if the purchaser or transferee had notice of his mental incompetence.

Death of  
resident

**27.** Upon the death of a resident and until letters probate of the will or letters of administration to the estate of the resident are granted to a person other than the Public Trustee and notice thereof is given to the Public Trustee, the Public Trustee may continue to manage the estate and exercise with respect thereto the powers that an executor would have if the property were devised or bequeathed to him in trust for payment of debts and distribution of the residue.

Passing of  
accounts

**28.** The Public Trustee is liable to render an account as to the manner in which he has managed the property of the resident in the same way and subject to the same responsibility as any trustee, guardian or committee duly appointed for a similar purpose may be called upon to account, and is entitled from time to time to bring in



and pass his accounts and tax costs in like manner as a trustee but is personally liable only for wilful misconduct.

**29.** For the services rendered by the Public Trustee as committee of a resident, he may be allowed compensation not exceeding the amount that a trustee would be allowed for like services, but in cases of poverty or hardship the Public Trustee may forego any claim for compensation. Compensation of Public Trustee

**30.**—(1) Where a person with respect to whom a notice of continuance has been received by the Public Trustee may not, based upon a report of the attending physician or other evidence available to the Public Trustee, be competent to manage his estate upon the termination of the committee-ship or a person discharged has refused or neglected to take his property or any part thereof from the Public Trustee, the Public Trustee may apply to the Supreme Court for directions as to the disposal of such property, and the court may make such order as it considers just, and may in its discretion order that the Public Trustee continue to manage the estate of such person with all the rights and powers that the Public Trustee would have had under this Act if the committee-ship had not been terminated. Application for directions

(2) Where the Public Trustee continues to manage an estate under subsection 1, the Supreme Court may, upon application, make such further order as it considers just and may, in its discretion, order that the management of the estate by the Public Trustee be relinquished. Further orders

**31.** The Public Trustee shall, out of the money in his hands belonging to a resident for whom he is committee, pay the proper charges for his maintenance in the facility in which he is a resident, and he may also pay such sums as he considers advisable to the resident's family or other persons dependent upon him, and the payments for the maintenance of the family and other dependants may be made notwithstanding that such payments may prevent the payment of maintenance that otherwise would be due from the resident. Payments out of resident's moneys

**32.** If there is any money in court to the credit of a resident, it shall be paid out to the Public Trustee upon his written application, and it is not necessary to obtain an order of the court or a judge for such purpose. Payments out of moneys in court

**33.** Nothing in this Act makes it the duty of the Public Trustee to institute proceedings on behalf of a resident or to intervene in respect of his estate or any part thereof or to take charge of any of his property. What Public Trustee not required to do

Patients  
in another  
province with  
estate in  
Ontario

**34.**—(1) Where a person who is suffering from a developmental handicap resides in another province or territory of Canada and has estate situate in Ontario, the Lieutenant Governor in Council may appoint the official of the other province or territory who is charged with the duty of managing the estate of such person in the other province or territory to be committee of the estate in Ontario.

Order  
conclusive

(2) The order making the appointment is conclusive proof that all the conditions precedent to the appointment have been fulfilled.

Rights and  
powers of  
appointee

(3) The appointee under such an order possesses the same rights, powers, privileges and immunities as are conferred by this Act upon the Public Trustee and he is subject to the same obligations and shall perform the same duties.

Minister may  
designate  
officers

**35.**—(1) The Minister may appoint officers of the Ministry or other persons who shall advise and assist the administrator in all matters pertaining to persons with a developmental handicap and who shall have such other duties as are assigned to them by this Act or the regulations.

Powers

(2) Any such officer or person may at any time, and shall be permitted so to do by the authorities thereat, visit and inspect any facility and, in so doing, may interview residents, examine books, records and other documents relating to residents, examine the condition of the facility and its equipment, inquire into the adequacy of its staff, the range of services provided and any other matter considered relevant to the care of residents by such officer or person.

Inspection

(3) The books of account and any other records of every facility or class of facility shall be open at all reasonable times for inspection by an officer or person appointed under subsection 1.

Provincial  
aid

**36.** The Minister may direct payment of provincial aid to or for the benefit of persons with a developmental handicap, or believed to have a developmental handicap, or to or for any facility or class of facility in which a person with a developmental handicap resides, in such amounts and under such conditions as are prescribed by the regulations.

Moneys

**37.** The moneys required for the purposes of this Act shall be paid out of moneys that are appropriated therefor by the Legislature.

Regulations

**38.** The Lieutenant Governor in Council may make regulations,

- (a) designating facilities or classes of facilities to which this Act and the regulations apply and limiting, restricting or exempting any such facility or class of facility from the application of any part of the regulations;
- (b) respecting the construction, renovation, alteration and maintenance of any facility or class of facility;
- (c) respecting the management, conduct, operation, use and control of any facility or class of facility;
- (d) prescribing the accommodation, facilities, equipment and services in any facility or class of facility;
- (e) providing for the officers and staff and prescribing their duties and qualifications in any facility or class of facility;
- (f) prescribing the procedure for selecting and evaluating the site of any facility or class of facility and for the development and preparation of plans for the site and buildings and for the information to be contained in such plans;
- (g) providing for the approval of facilities within a class and prescribing the terms and conditions upon which any such facility may be approved for persons with a developmental handicap;
- (h) for the purposes of this Act and the regulations, defining "assistance" and "services" and prescribing classes of services and classes of assistance and the items, services and payments to be included in any such definition or in any such class of services or class of assistance and prescribing the terms and conditions upon which such services or assistance or any class thereof may be provided;
- (i) prescribing the classes of grants or allowances by way of provincial aid to or for the benefit of persons with a developmental handicap or believed to have a developmental handicap, or to or for any facility or class of facility and the methods of determining the amounts of such grants or allowances, the terms and conditions for the payment thereof and providing for the manner, times and methods of payment and the suspension and withholding of grants and allowances and for the making of deductions from grants and allowances;



- (j) prescribing the persons or classes of persons who may be eligible for services and assistance or any class thereof and prescribing the terms and conditions of eligibility for services and assistance or any classes thereof requiring information to be submitted and providing for the investigation and determination of eligibility for such services or assistance or any classes thereof;
- (k) prescribing the charges that shall be made for the provision of services and assistance or any class thereof to a person with a developmental handicap or believed to have a developmental handicap and limiting, restricting or exempting the persons or any class of persons to whom such charges shall be made;
- (l) prescribing the persons and authorities or classes of persons or authorities that are liable for or exempted from the cost of services and assistance or any class of services or assistance to persons with a developmental handicap or believed to have a developmental handicap and prescribing rules for determining the amounts to be contributed towards the cost of such services or assistance or class thereof by the person or authority or class of person or authority who are liable therefor;
- (m) providing for the recovery of any sum as a debt due to the Crown or to the board of any facility in any court of competent jurisdiction from any person or his estate or authority liable therefor, of the cost or any part of the cost of any services or assistance or any class thereof provided to or for a person with a developmental handicap or believed to have a developmental handicap;
- (n) providing for an agreement to be entered into with or on behalf of any resident or class of resident in a facility or in any class of facility, for the administrator in charge of the facility or class of facility, to receive, hold and administer real and personal property of the resident or class of resident in trust for certain purposes, and providing for the terms and conditions of trust upon which the administrator may receive and hold such property;
- (o) providing for the establishment of in-service training programs for members of the staff of any facility or class of facility;

- (p) providing for any parent or guardian of a child with a developmental handicap or believed to have a developmental handicap to enter into agreement with the Minister or any child welfare authority appointed by the Minister, for the purposes of providing services or assistance or any class thereof, and providing for the terms and conditions in any such agreement upon which such services or assistance or any class thereof may be provided;
- (q) governing applications for payment of grants or allowances under this Act;
- (r) prescribing the records and accounts to be kept in respect of facilities or class of facilities, the claims and returns to be made to the Minister and the method, time and manner in which such claims and returns are to be made;
- (s) prescribing additional duties of officers or persons appointed by the Minister under section 35;
- (t) respecting the examination of persons and the admission, transfer, discharge and placement of residents;
- (u) prescribing rules governing the operation, management functions and powers of boards appointed by the Lieutenant Governor in Council under subsection 2 of section 3; and
- (v) prescribing forms and providing for their use.

**39.**—(1) This Act comes into force on the 1st day of Commence-  
April, 1974. ment

(2) Any regulations made under section 38 and filed Idem  
under *The Regulations Act* before the 31st day of December, R.S.O. 1970,  
1974 may be made to apply retroactively to a date not c. 410  
earlier than the 1st day of April, 1974.

**40.** This Act may be cited as *The Developmental Services* Short title  
*Act, 1974.*



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*1st Reading*

March 7th, 1974

*2nd Reading*

March 26th, 1974

*3rd Reading*

March 28th, 1974

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THE HON. R. BRUNELLE  
Minister of Community and  
Social Services

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act to amend The Municipal Act**

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**THE HON. J. WHITE**  
**Treasurer of Ontario and Minister of Economics  
and Intergovernmental Affairs**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**

#### EXPLANATORY NOTE

The amendments will permit any local municipality to enter into agreement with Ontario in order to promote economic development of the area as contemplated under the Federal-Provincial DREE program, without the necessity of obtaining either the assent of its electors or the approval of the Municipal Board.

BILL 8

1974

## An Act to amend The Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 293 of *The Municipal Act*, being <sup>s. 293(2), amended</sup> chapter 284 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clause:

(u) agreements respecting regional economic development under paragraph 74a of section 352.

2. Section 352 of the said Act, as amended by the Statutes of <sup>s. 352, amended</sup> Ontario, 1971, chapter 81, section 2, 1972, chapter 124, section 9, and 1973, chapter 83, section 6, is further amended by adding thereto the following paragraph:

74a. For entering into any agreement with Her Majesty in right of Ontario respecting regional economic development and, subject to the approval of the Minister, any ancillary or subsidiary agreements with any person required as a result of entering into such an agreement with Her Majesty. <sup>Agreements respecting regional economic development</sup>

3. This Act comes into force on the day it receives Royal Assent. <sup>Commencement</sup>
4. This Act may be cited as *The Municipal Amendment Act, 1974*. <sup>Short title</sup>

The Municipal Act

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*1st Reading*

March 7th, 1974

*2nd Reading*

*3rd Reading*

---

THE HON. J. WHITE  
Treasurer of Ontario and Minister of  
Economics and Intergovernmental  
Affairs

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(Government Bill)

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# **BILL 8**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act to amend The Municipal Act**

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**THE HON. J. WHITE**  
Treasurer of Ontario and Minister of Economics  
and Intergovernmental Affairs

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ILL 8

1974

## An Act to amend The Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 293 of *The Municipal Act*, being chapter 284 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clause:

(u) agreements respecting regional economic development under paragraph 74a of section 352.

2. Section 352 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 81, section 2, 1972, chapter 124, section 9, and 1973, chapter 83, section 6, is further amended by adding thereto the following paragraph:

74a. For entering into any agreement with Her Majesty in right of Ontario respecting regional economic development and, subject to the approval of the Minister, any ancillary or subsidiary agreements with any person required as a result of entering into such an agreement with Her Majesty.

3. This Act comes into force on the day it receives Royal Assent.
4. This Act may be cited as *The Municipal Amendment Act, 1974*.

*1st Reading*

March 7th, 1974

*2nd Reading*

March 15th, 1974

*3rd Reading*

March 15th, 1974

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THE HON. J. WHITE  
Treasurer of Ontario and Minister of  
Economics and Intergovernmental  
Affairs

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act to amend The Ontario Human Rights Code**

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THE HON. F. GUINDON  
Minister of Labour

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TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTES

SECTION 1. The amendment clarifies the fact that the exception is only in respect of sex and does not include the other bases of discrimination set out in subsection 1.

SECTION 2. The amendment adds age as an exception where age is a *bona fide* occupational qualification and requirement for employment.

SECTION 3. The administrative and enforcement functions formerly carried out by the Ontario Women's Bureau are now carried out by the Commission under this Act.

SECTION 4. The purpose of the amendment is to make provision for the investigation of complaints under the Act rather than provide for formal inquiries at this point in the proceedings.

ILL 9

1974

## An Act to amend The Ontario Human Rights Code

**H**ER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of the Province of Ontario, enacts as  
FOLWS

1. Subsection 2 of section 3 of *The Ontario Human Rights Code*, <sup>s. 3 (2).</sup> <sup>re-enacted</sup> being chapter 318 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 119, section 4, is repealed and the following substituted therefor:

(2) The prohibition in subsection 1 in respect of sex <sup>Exception</sup> does not apply to housing accommodation in a building where the occupancy of all the housing accommodation other than that of the owner or his family is restricted to individuals who are of the same sex.

2. Subsection 6 of section 4 of the said Act, as re-enacted by <sup>s. 4 (6).</sup> <sup>re-enacted</sup> the Statutes of Ontario, 1972, chapter 119, section 5, is repealed and the following substituted therefor:

(6) The provisions of this section relating to any dis- <sup>Exception</sup> crimination, limitation, specification or preference for a position or employment based on age, sex or marital status do not apply where age, sex or marital status is a *bona fide* occupational qualification and requirement for the position or employment.

3. Section 7a of the said Act, as enacted by the Statutes of <sup>s. 7a.</sup> <sup>repealed</sup> Ontario, 1972, chapter 119, section 8, is repealed.

4. Section 14 of the said Act, as re-enacted by the Statutes of <sup>s. 14.</sup> <sup>re-enacted</sup> Ontario, 1971, chapter 50, section 63, and amended by 1972, chapter 119, section 11, is repealed and the following substituted therefor:

14.—(1) Where a complaint has been filed with or initiated <sup>Inquiry and</sup> <sup>settlement</sup> by the Commission, the Commission or an officer thereof

shall inquire into the complaint and endeavour to effect settlement of the matter complained of.

Powers of  
Commission  
and officers  
of the  
Commission

(2) In carrying out an inquiry under subsection 1, the Commission or an officer of the Commission may,

- (a) subject to subsection 3, enter in or upon the land or premises of a person at any reasonable time without a warrant for the purpose of investigating the complaint;
- (b) require the production for inspection and examination of employment applications, payrolls, records, documents, writings and papers that are or may be relevant to the investigation of the complaint;
- (c) upon giving a receipt therefor, remove any employment applications, payrolls, records, documents, writings and papers mentioned in clause *b* for the purpose of making copies or extracts of such applications, payrolls, records, documents, writings and papers, but such copying shall be carried on with reasonable dispatch and the applications, payrolls, records, documents, writings and papers shall be promptly thereafter returned and to the premises from which they were removed;
- (d) make any inquiries of any person separately and apart from another person that are or may be relevant to the complaint.

Access to  
dwelling

(3) An officer of the Commission shall not enter a room or place actually being used as a dwelling without the consent of the occupier except under the authority of an order issued pursuant to subsection 4.

Order of  
justice of  
the peace

(4) Where a justice of the peace is satisfied, upon an *ex parte* application by an officer of the Commission, that there is reasonable ground for believing that it is necessary to enter any premises for purposes relevant to an inquiry under this Act, the justice of the peace may issue an order authorizing an officer of the Commission to enter and view such premises for such purposes, but every such entry and viewing shall be made between sunrise and sunset unless the justice of the peace by the order authorizes the officer to make such entry and viewing at night.

Obstruction

(5) No person shall hinder, obstruct, molest or interfere with the Commission or an officer of the Commission in the exercise of a power or the performance of a duty under

this Act or withhold from it or him any employment applications, payrolls, records, documents, writings or papers that are or may be relevant to the investigation of a complaint.

5. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
6. This Act may be cited as *The Ontario Human Rights Code* Short title  
*Amendment Act, 1974.*







An Act to amend  
The Ontario Human Rights Code

---

*1st Reading*

March 7th, 1974

*2nd Reading*

*3rd Reading*

---

THE HON. F. GUINDON  
Minister of Labour

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*(Government Bill)*

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act to amend The Ontario Human Rights Code**

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THE HON. J. MACBETH  
Minister of Labour

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*(Reprinted as amended by the Committee of the Whole House)*

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TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTES

SECTION 1. The amendment clarifies the fact that the exception is only in respect of sex and does not include the other bases of discrimination set out in subsection 1.

SECTION 2. The amendment adds age as an exception where age is a *bona fide* occupational qualification and requirement for employment.

SECTION 3. A pension fund or plan and an insurance plan are exempted from the general prohibition that no person shall discriminate against any employee because of age, sex or marital status. At present such exemption was to exist only until a date to be proclaimed.

## An Act to amend The Ontario Human Rights Code

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 3 of *The Ontario Human Rights Code*, <sup>s. 3 (2), re-enacted</sup> being chapter 318 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 119, section 4, is repealed and the following substituted therefor:

(2) The prohibition in subsection 1 in respect of sex <sup>Exception</sup> does not apply to housing accommodation in a building where the occupancy of all the housing accommodation other than that of the owner or his family is restricted to individuals who are of the same sex.

2. Subsection 6 of section 4 of the said Act, as re-enacted by <sup>s. 4 (6), re-enacted</sup> the Statutes of Ontario, 1972, chapter 119, section 5, is repealed and the following substituted therefor:

(6) The provisions of this section relating to any discrimination, limitation, specification or preference for a position or employment based on age, sex or marital status do not apply where age, sex or marital status is a *bona fide* occupational qualification and requirement for the position or employment. <sup>Exception</sup>

3. Section 4 of the said Act, as re-enacted by the Statutes of <sup>s. 4, amended</sup> Ontario, 1972, chapter 119, section 5, is amended by adding thereto the following subsection:

(9) Clause g of subsection 1 does not apply to any *bona fide* <sup>Exception</sup> superannuation or pension fund or plan or any *bona fide* insurance plan that provides life, income, disability, sickness, medical or hospital payments or benefits of a monetary kind to which an employee, his survivors or dependants are or may be entitled that differentiates or makes a distinction, exclusion or preference between employees or any class or classes of employees because of age, sex or marital status.



s. 7a,  
repealed

4. Section 7a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 119, section 8, is repealed.

s. 14,  
re-enacted

5. Section 14 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 63, and amended by 1972, chapter 119, section 11, is repealed and the following substituted therefor:

Inquiry and  
settlement

14.—(1) Where a complaint has been filed with or initiated by the Commission, the Commission or an officer thereof shall inquire into the complaint and endeavour to effect a settlement of the matter complained of.

Powers of  
Commission  
and officers  
of the  
Commission

(2) In carrying out an inquiry under subsection 1, the Commission or an officer of the Commission may,

- (a) subject to subsection 3, enter in or upon the lands or premises of a person at any reasonable time without a warrant for the purpose of investigating the complaint;
- (b) require the production for inspection and examination of employment applications, payrolls, records, documents, writings and papers that are or may be relevant to the investigation of the complaint;
- (c) upon giving a receipt therefor, remove any employment applications, payrolls, records, documents, writings and papers mentioned in clause *b* for the purpose of making copies or extracts of such applications, payrolls, records, documents, writings and papers, but such copying shall be carried on with reasonable dispatch and the applications, payrolls, records, documents, writings and papers shall be promptly thereafter returned and to the premises from which they were removed;
- (d) make any inquiries of any person separate or apart from another person that are or may be relevant to the complaint.

Access to  
dwelling

(3) An officer of the Commission shall not enter any room or place actually being used as a dwelling without the consent of the occupier except under the authority of an order issued pursuant to subsection 4.

Order of  
justice of  
the peace

(4) Where a justice of the peace is satisfied, upon an *ex parte* application by an officer of the Commission, that there is reasonable ground for believing that it is necessary

SECTION 4. The administrative and enforcement functions formerly carried out by the Ontario Women's Bureau are now carried out by the Commission under this Act.

SECTION 5. The purpose of the amendment is to make provision for the investigation of complaints under the Act rather than provide for formal inquiries at this point in the proceedings.



to enter any premises for purposes relevant to an inquiry under this Act, the justice of the peace may issue an order authorizing an officer of the Commission to enter and view such premises for such purposes, but every such entry and viewing shall be made between sunrise and sunset unless the justice of the peace by the order authorizes the officer to make such entry and viewing at night.

[5] No person shall hinder, obstruct, molest or interfere with the Commission or an officer of the Commission in the exercise of a power or the performance of a duty under this Act or withhold from it or him any employment applications, payrolls, records, documents, writings or papers that are or may be relevant to the investigation of a complaint. Obstruction

6. Subsection 2 of section 16 of *The Ontario Human Rights Code Amendment Act, 1972*, being chapter 119, is repealed. 1972, c. 119,  
s. 16 (2),  
repealed

7. This Act comes into force on the day it receives Royal Assent. Commence-  
ment

8. This Act may be cited as *The Ontario Human Rights Code Amendment Act, 1974*. Short title

*1st Reading*

March 7th, 1974

*2nd Reading*

November 15th, 1974

*3rd Reading*

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THE HON. J. MACBETH  
Minister of Labour

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(Reprinted as amended by the  
*Committee of the Whole House*)



# **BILL 9**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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## **An Act to amend The Ontario Human Rights Code**

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THE HON. J. MACBETH  
Minister of Labour

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## An Act to amend The Ontario Human Rights Code

HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of the Province of Ontario, enacts as  
follows:

1. Subsection 2 of section 3 of *The Ontario Human Rights Code*, <sup>s. 3 (2),</sup> being chapter 318 of the Revised Statutes of Ontario, 1970, <sup>re-enacted</sup> as re-enacted by the Statutes of Ontario, 1972, chapter 119, section 4, is repealed and the following substituted therefor:

(2) The prohibition in subsection 1 in respect of sex <sup>Exception</sup> does not apply to housing accommodation in a building where the occupancy of all the housing accommodation other than that of the owner or his family is restricted to individuals who are of the same sex.

2. Subsection 6 of section 4 of the said Act, as re-enacted by <sup>s. 4 (6),</sup> the Statutes of Ontario, 1972, chapter 119, section 5, is repealed <sup>re-enacted</sup> and the following substituted therefor:

(6) The provisions of this section relating to any dis- <sup>Exception</sup> crimination, limitation, specification or preference for a position or employment based on age, sex or marital status do not apply where age, sex or marital status is a *bona fide* occupational qualification and requirement for the position or employment.

3. Section 4 of the said Act, as re-enacted by the Statutes of <sup>s. 4,</sup> Ontario, 1972, chapter 119, section 5, is amended by adding <sup>amended</sup> thereto the following subsection:

(9) Clause g of subsection 1 does not apply to any *bona* <sup>Exception</sup> *fide* superannuation or pension fund or plan or any *bona fide* insurance plan that provides life, income, disability, sickness, medical or hospital payments or benefits of a monetary kind to which an employee, his survivors or dependants are or may be entitled that differentiates or makes a distinction, exclusion or preference between employees or any class or classes of employees because of age, sex or marital status.

s. 7a,  
repealed

4. Section 7a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 119, section 8, is repealed.

s. 14,  
re-enacted

5. Section 14 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 63, and amended by 1972, chapter 119, section 11, is repealed and the following substituted therefor:

Inquiry and  
settlement

14.—(1) Where a complaint has been filed with or initiated by the Commission, the Commission or an officer thereof shall inquire into the complaint and endeavour to effect settlement of the matter complained of.

Powers of  
Commission  
and officers  
of the  
Commission

(2) In carrying out an inquiry under subsection 1, the Commission or an officer of the Commission may,

- (a) subject to subsection 3, enter in or upon the land or premises of a person at any reasonable time without a warrant for the purpose of investigating the complaint;
- (b) require the production for inspection and examination of employment applications, payrolls, records, documents, writings and papers that are or may be relevant to the investigation of the complaint;
- (c) upon giving a receipt therefor, remove any employment applications, payrolls, records, documents, writings and papers mentioned in clause *b* for the purpose of making copies or extracts of such applications, payrolls, records, documents, writings and papers, but such copying shall be carried on with reasonable dispatch and the applications, payrolls, records, documents, writings and papers shall be promptly thereafter returned and to the premises from which they were removed;
- (d) make any inquiries of any person separate and apart from another person that are or may be relevant to the complaint.

Access to  
dwelling

(3) An officer of the Commission shall not enter any room or place actually being used as a dwelling without the consent of the occupier except under the authority of an order issued pursuant to subsection 4.

Order of  
justice of  
the peace

(4) Where a justice of the peace is satisfied, upon an *ex parte* application by an officer of the Commission, that there is reasonable ground for believing that it is necessary

to enter any premises for purposes relevant to an inquiry under this Act, the justice of the peace may issue an order authorizing an officer of the Commission to enter and view such premises for such purposes, but every such entry and viewing shall be made between sunrise and sunset unless the justice of the peace by the order authorizes the officer to make such entry and viewing at night.

(5) No person shall hinder, obstruct, molest or interfere with the Commission or an officer of the Commission in the exercise of a power or the performance of a duty under this Act or withhold from it or him any employment applications, payrolls, records, documents, writings or papers that are or may be relevant to the investigation of a complaint. Obstruction

3. Subsection 2 of section 16 of *The Ontario Human Rights Code Amendment Act, 1972*, being chapter 119, is repealed. 1972, c. 119,  
s. 16 (2),  
repealed

7. This Act comes into force on the day it receives Royal Assent. Commence-  
ment

8. This Act may be cited as *The Ontario Human Rights Code Amendment Act, 1974*. Short title







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*1st Reading*

March 7th, 1974

*2nd Reading*

November 15th, 1974

*3rd Reading*

November 28th, 1974

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THE HON. J. MACBETH  
Minister of Labour

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act to amend The Mental Health Act**

---

MR. ROY

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#### EXPLANATORY NOTE

The Bill would require that a person who had been detained under section 10 of the Act for medical examination be brought before a justice of the peace within twenty-four hours to justify the validity of the detention.



## An Act to amend The Mental Health Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Mental Health Act*, being chapter 269 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 10a.  
enacted

10a. Where a person has been detained for medical examination under section 10, he shall be taken before a justice of the peace to be dealt with in the same manner as if an information upon oath were brought before the justice of the peace under section 9, Detainee to  
be brought  
before justice  
of the peace

(a) where a justice of the peace is available, within a period of twenty-four hours after the person has been detained, the person shall be taken before a justice of the peace before the expiration of that period; or

(b) where a justice of the peace is not available within a period of twenty-four hours after the person has been detained, the person shall be taken before a justice of the peace as soon as possible. Commence-  
ment

2. This Act comes into force on the day it receives Royal Assent.

3. This Act may be cited as *The Mental Health Amendment Act, 1974*. Short title

An Act to amend  
The Mental Health Act

*1st Reading*

March 7th, 1974

*2nd Reading*

*3rd Reading*

MR. ROY

*(Private Member's Bill)*

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act to provide for the Protection of House Buyers**

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MR. GIVENS

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EXPLANATORY NOTE

The Bill establishes a Commissioner of Housing and provides for the licensing of builders.

## An Act to provide for the Protection of House Buyers

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. In this Act,**

Interpre-  
tation

- (a) "builder" means a person who constructs houses;
- (b) "Commissioner" means the Commissioner of Housing;
- (c) "Director" means the Director of the Consumer Protection Division of the Ministry;
- (d) "Minister" means the Minister of Consumer and Commerical Relations;
- (e) "Ministry" means the Ministry of Consumer and Commercial Relations;
- (f) "new house" means a house that is being sold for the first time;
- (g) "regulations" means the regulations made under this Act;
- (h) "Tribunal" means The Commercial Registration Appeal Tribunal established under *The Department of Financial and Commercial Affairs Act*; R.S.O. 1970,  
c. 113
- (i) "used house" means a house that is being sold for a second or subsequent time.

### COMMISSIONER

**2.—(1)** There shall be a Commissioner of Housing who shall be appointed by the Lieutenant Governor in Council. Com-  
missioner



Powers and  
duties of Com-  
missioner

(2) The Commissioner may exercise the powers and shall discharge the duties conferred and imposed upon him by this Act and the regulations under the supervision of the Director.

#### LICENSING

Licensing

**3.**—(1) No person shall engage in business as a builder unless he is licensed as a builder.

Change in  
partnership

(2) Where a partnership is licensed under subsection 1, any change in the membership of the partnership shall be deemed to create a new partnership for the purpose of licensing.

Licensing,  
exception

**4.**—(1) An applicant is entitled to a licence or renewal of a licence by the Commissioner except where,

- (a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or
- (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or
- (c) the applicant is a corporation and,
  - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
  - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or
- (d) the applicant is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Act or the regulations.

Conditions of  
a licence

(2) A licence is subject to such terms and conditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations.

Refusal to  
grant a  
licence

**5.**—(1) Subject to section 9, the Commissioner may refuse to grant a licence to an applicant where in the Commissioner's opinion the applicant is disentitled to a licence under section 4.

(2) Subject to section 6, the Commissioner may refuse to renew or may suspend or revoke a licence for any reason that would disentitle the licensee to a licence under section 4 if he were an applicant or where the licensee is in breach of a term or condition of the licence. Revocation

6.—(1) Where the Commissioner proposes to refuse to grant or renew a licence or proposes to suspend or revoke a licence, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee. Notice of proposal to refuse or revoke

(2) A notice under subsection 1 shall inform the applicant or licensee that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under section 1 is served on him, notice in writing requiring a hearing to the Commissioner and the Tribunal, and he may so require such a hearing. Notice requiring hearing

(3) Where an applicant or licensee does not require a hearing by the Tribunal in accordance with subsection 2, the Commissioner may carry out the proposal stated in his notice under subsection 1. Powers of Commissioner where no hearing

(4) Where an applicant or licensee requires a hearing by the Tribunal in accordance with subsection 2, the Tribunal shall appoint a time for and hold the hearing and, on the application of the Commissioner at the hearing, may by order direct the Commissioner to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Commissioner ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Commissioner. Powers of Tribunal where hearing

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act. Conditions of order

(6) The Commissioner, the applicant or licensee who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section. Parties

(7) Notwithstanding subsection 1, the Commissioner may cancel a licence upon the request in writing of the licensee in the prescribed form surrendering his licence. Voluntary cancellation

(8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue, Continuation of licence pending renewal

(a) until the renewal is granted; or

(b) where he is served with notice that the Commissioner proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.

Order of  
Tribunal  
effective,  
stay  
R.S.O. 1970,  
c. 113

(9) Notwithstanding that a licensee appeals from an order of the Tribunal under section 9b of *The Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal.

Further  
applications

7. A further application for a licence may be made upon new or other evidence or where it is clear that material circumstances have changed.

Investiga-  
tion of  
complaints

8.—(1) Where the Commissioner receives a complaint in respect of a builder and so requests in writing, the builder shall furnish the Commissioner with such information respecting the matter complained of as the Commissioner requires.

Idem

(2) The request under subsection 1 shall indicate the nature of the inquiry involved.

Idem

(3) For the purposes of subsection 1, the Commissioner or any person designated in writing by him may at any reasonable time enter upon the business premises of the licensee to make an inspection in relation to the complaint.

Inspection

9.—(1) The Commissioner or any person designated by him in writing may at any reasonable time enter upon the business premises of the licensee to make an inspection to ensure that the provisions of this Act and the regulations relating to a licence are being complied with.

Idem

(2) Where the Commissioner has reasonable and probable grounds to believe that any person is acting as a builder while not licensed, the Commissioner or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 3.

Powers on  
inspection

10.—(1) Upon an inspection under section 8 or 9, the person inspecting,

(a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, corre-



spondence and records of the person being inspected that are relevant for the purposes of the inspection; and

- (b) may, upon giving a receipt therefor, remove any material referred to in clause a that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

(2) Any copy made as provided in subsection 1 and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original. Admissibility of copies

11. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act. Investigations by order of Minister  
1971, c. 40

12.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person has, Investigation by Director

(a) contravened any of the provisions of this Act or the regulations; or

(b) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that is relevant to his fitness for licensing under this Act, R.S.C. 1970,  
c. C-34

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence has occurred, and the person appointed shall report the result of his investigation to the Director.

Powers of  
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

- (a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation; and
- (b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

1971, c. 49

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

Obstruction  
of  
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Search  
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause *a* of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.



(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause *a* of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated. Removal of books, etc.

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents. Admissibility of copies

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4. Appointment of experts

**13.**—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 8, 9, 10, 11 or 12, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except, Matters confidential

(a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or

(b) to his counsel; or

(c) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations. Testimony in civil suit

**14.** Where, upon the report of an investigation made under subsection 1 of section 13, it appears to the Director that a person may have, Report

(a) contravened any of the provisions of this Act or the regulations; or

R.S.C. 1970,  
c. C-34

- (b) committed an offence, under the *Criminal Code* (Canada) or under the law of any jurisdiction, that is relevant to his fitness for licensing under this Act,

the Director shall send a full and complete report of the investigation, including the report made to him, any transcript of evidence and any material in the possession of the Director relating thereto, to the Minister.

Order to  
refrain from  
dealing with  
assets

**15.—(1) Where,**

- (a) an investigation of any person has been ordered under section 13; or
- (b) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are connected with or arise out of the business in respect of which such person is registered,

the Director, if he believes it advisable for the protection of clients or customers of the person referred to in clause *a* or *b*, may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause *a* or *b* to hold such assets or trust funds or direct the person referred to in clause *a* or *b* to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act* or the *Winding-up Act* (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trusts funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

R.S.O. 1970,  
cc. 228, 89, 53  
R.S.C. 1970,  
cc. B-4, W-11

Bond in  
lieu

(2) Subsection 1 does not apply where the person referred to in clause *a* or *b* of subsection 1 files with the Director,

- (a) a personal bond accompanied by collateral security;
- (b) a bond of a guarantee company approved under *The Guarantee Companies Securities Act*; or
- (c) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

R.S.O. 1970,  
c. 196

in such form, terms and amount as the Director determines.

(3) Any person in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just.

Application  
for  
direction

(4) In any of the circumstances mentioned in clause *a* or *b* of subsection 1, the Director may in writing or by telegram notify any registrar or master of titles that proceedings are being or are about to be taken that may affect land belonging to the person referred to in the notice, and the notice shall be registered against the lands mentioned therein and has the same effect as the registration of a certificate of *lis pendens* except that the Director may in writing revoke or modify the notice.

Notice to  
registrar, etc.

(5) Any person referred to in clause *a* or *b* of subsection 1 in respect of whom a direction has been given by the Director under subsection 1 or any person having an interest in land in respect of which a notice has been registered under subsection 4 may, at any time, apply to the Tribunal for cancellation in whole or in part of the direction or registration and the Tribunal shall dispose of the application after a hearing and may, if it finds that such a direction or registration is not required in whole or in part for the protection of clients or customers of the applicant or of other persons interested in the land or that the interests of other persons are unduly prejudiced thereby, cancel the direction or registration in whole or in part, and the applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal.

Application  
for cancella-  
tion of  
direction or  
registration

#### REGULATION OF BUILDING

16. Every builder shall keep a record sheet in the prescribed form and proper books and accounts with respect to his business as a builder.

Books, etc.,  
to be kept

17.—(1) Every builder shall maintain an account designated as a trust account in a chartered bank, loan or trust company or Province of Ontario Savings Office in which shall be deposited all moneys that come into his hands in trust for other persons in connection with his business, and he shall at all times keep such moneys separate and apart from moneys belonging to himself or to the partnership, in the case of a partnership, and shall disburse such moneys only in accordance with the terms of the trust.

Bank  
account



Unclaimed  
trust moneys

(2) Where a builder holds moneys in trust for a period of one year after the person for whom it is held first became entitled to payment of the moneys and such person cannot be located, the builder shall pay the moneys to the Treasurer of Ontario who shall pay the moneys to the person appearing to the Treasurer to be entitled thereto.

Notice

**18.** Every builder shall notify the Commissioner in writing sixty days before commencing construction of a house.

Fee

**19.**—(1) Every builder shall pay to the Commissioner a fee in such amount and at such time as prescribed by the regulations, for each house on which he has commenced construction.

Insurance  
fund  
established

(2) The fees referred to in subsection 1 shall be used to establish a house buyers insurance fund.

Building  
code

**20.**—(1) Every house, the construction of which is commenced on or after the 1st day of January, 1975, shall be built to the minimum standards prescribed in the regulations.

Idem

(2) Every house referred to in subsection 1 shall be inspected by an inspector designated in writing by the Commissioner, at least four times during the period of its construction to ensure compliance with this Act and the regulations.

Warranty

**21.**—(1) Except for those defects noted in the Agreement of Purchase and Sale, where a builder sells a house, he shall,

(a) guarantee the house against any latent defects for a period of at least five years from the date of completion of construction; and

(b) guarantee the house against any patent defects for a period of at least one year from the date of completion of construction.

Subsequent  
purchasers

(2) The warranties referred to in subsection 1 shall be valid and binding with regard to any subsequent purchasers of the house.

Agreement  
of Purchase  
and Sale  
prescribed

**22.** Every house sold in Ontario shall be sold only pursuant to the form of Agreement of Purchase and Sale prescribed in the regulations.

**23.**—(1) Every vendor of a new house shall in so far as such defects are known to him include in the Agreement of Purchase and Sale, a list of all patent defects of the house. Defects in Agreement of Purchase and Sale

(2) Every vendor of a used house shall in so far as such defects are known to him include in the Agreement of Purchase and Sale, a list of all latent and patent defects of the house. Idem

**24.**—(1) Any notice or order required to be given or served under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Ministry. Service

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date. Where service deemed to be made

(3) Notwithstanding subsections 1 and 2, the Tribunal may order any other method of service in respect of any matter before the Tribunal. Exception

**25.**—(1) Where it appears to the Director that any person does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit. Restraining orders

(2) An appeal lies to the Supreme Court from an order made under subsection 1. Appeal

**26.**—(1) Every person who, knowingly,

Offences

- (a) furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with any order, direction or other requirement made under this Act; or



- (c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

**Corporations** (2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

**Consent of Minister** (3) No proceedings under this section shall be instituted except with the consent of the Minister.

**Limitation** (4) No proceeding under clause *a* of subsection 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director.

**Idem** (5) No proceeding under clause *b* or *c* of subsection 1 shall be commenced more than two years after the time when the subject-matter of the proceeding arose.

**Regulations** **27.** The Lieutenant Governor in Council may make regulations,

- (a) requiring and governing the books, accounts and records that shall be kept by licensed builders;
- (b) governing applications for a licence or renewal of a licence and prescribing terms and conditions of licences;
- (c) prescribing the fees payable upon applications for licences and renewal of licences and any other fees in connection with the administration of this Act and the regulations;
- (d) prescribing the fees payable by builders and the time at which they are to be paid, for each house on which a builder has commenced construction;
- (e) prescribing the practice and procedure upon investigations under sections 8 and 10;
- (f) prescribing forms and providing for their use;
- (g) prescribing further procedures respecting the conduct of matters coming before the Tribunal;

- (h) prescribing the minimum building standards for the construction of houses;
- (i) providing for the managing of the house buyers insurance fund and the method of compensating persons claiming from the fund.

**28.** This Act comes into force on the day it receives Commence-  
ment Royal Assent.

**29.** This Act may be cited as *The House Buyers Protection Act, 1974*. Short title

An Act to provide for the  
Protection of House Buyers

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*1st Reading*

March 11th, 1974

*2nd Reading*

*3rd Reading*

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MR. GIVENS

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*(Private Member's Bill)*

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting a certain Dispute between the York  
County Board of Education and certain of its Teachers**

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THE HON. T. L. WELLS  
Minister of Education

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#### EXPLANATORY NOTE

This Act makes provision for the settlement of all matters remaining in dispute between the York County Board of Education and its secondary school teachers and requires the teachers to resume their employment with the Board and the Board to resume the employment of the teachers. The rates of salaries last offered by the Board are implemented effective from the 1st day of September, 1973 until the award of the board of arbitration comes into operation.



BILL 12

1974

**An Act respecting a certain Dispute  
between the York County Board of  
Education and certain of its Teachers**

**W**HEREAS the York County Board of Education and Preamble  
its secondary school teachers have been negotiating  
terms of employment; and whereas these negotiations are  
deemed to have reached an impasse after approximately ten  
months of free collective bargaining and mediation; and  
whereas the secondary school students of York County have  
been severely disadvantaged for approximately six weeks  
due to their lack of access to a full educational program;  
and whereas the public interest, and in particular the interests  
of students, requires that all teachers return to the classroom,  
and that means be found for the settlement of all matters in  
dispute between the Board and its teachers;

Therefore, Her Majesty, by and with the advice and consent  
of the Legislative Assembly of the Province of Ontario, enacts  
as follows:

**1. In this Act,**

Interpre-  
tation

- (a) "Board" means the York County Board of Educa-  
tion;
- (b) "Minister" means the Minister of Education;
- (c) "teachers" means the secondary school teachers  
employed on permanent or probationary contracts  
by the York County Board of Education on the  
30th day of January, 1974.

**2.**—(1) The teachers who withdrew their services as a Resumption  
of employ-  
ment  
result of submitting resignations effective on the 31st day of  
January, 1974, shall, on the day following the day this Act  
comes into force, resume their employment with the Board  
in accordance with their contracts of employment in effect  
on the 30th day of January, 1974 as they may be varied by an  
award made under this Act, and the Board shall, on the day

following the day this Act comes into force, resume the employment of such teachers in accordance with such contracts of employment.

**Exception**

(2) Nothing in this Act precludes a teacher from not resuming his employment with the Board for reasons of health or by mutual consent in writing of the teacher and the Board.

**Arbitration**

**3.—**(1) The Board and The Ontario Secondary School Teachers' Federation on behalf of the teachers shall, within fifteen days after the day this Act comes into force, submit to final and binding arbitration under this Act the matters considered by the Board or the teachers, as the case may be, to be matters remaining in dispute by each sending to the Minister a notice in writing setting forth the matters considered to be matters remaining in dispute, and the Minister shall forward such notices to the board of arbitration.

**Pupil-  
teacher ratio**

(2) Pupil-teacher ratio is arbitrable and shall be deemed to be included as a matter in dispute in the notices referred to in subsection 1.

**Duties and  
procedures**

(3) The board of arbitration constituted under this section, upon receipt of a notice referred to in subsection 1, shall examine into and decide all matters that are in dispute between the Board and the teachers as evidenced by the notices referred to in subsection 1 and any other matters that appear to the board of arbitration to be necessary to be decided in order to make an award and shall determine its own procedures but shall give full opportunity to the Board and the negotiators for the teachers to present evidence and to make submissions.

**Appointment  
of  
arbitrators**

(4) The Board and The Ontario Secondary School Teachers' Federation shall, within seven days after the day this Act comes into force, each appoint to a board of arbitration a person who has indicated his willingness to act and shall notify each other and the Minister of the name and address of the person so appointed, and where the Board or The Ontario Secondary School Teachers' Federation fails to appoint a member of the board of arbitration within such period, the Minister shall appoint such member.

**Appointment  
of chairman**

(5) The two persons appointed under subsection 4 shall, within seven days after they have been appointed, appoint a person to act as chairman of the board of arbitration and, where no chairman can be agreed upon within such time, the persons so appointed shall notify the Minister who shall thereupon appoint the chairman.

(6) No person shall be appointed a member of the board of arbitration who has any direct pecuniary interest in the matters coming before it or who is acting or who has, within a period of six months immediately preceding the date of his appointment, acted as mediator, solicitor, counsel, negotiator or agent of either the Board or the teachers, but no person shall be deemed to have a direct pecuniary interest by reason only of his being a ratepayer within the area of jurisdiction of the Board.

Disqualification

(7) Where a member appointed under subsection 4 ceases to act by reason of withdrawal, death or otherwise before the board of arbitration has completed its work, a replacement shall be appointed by whoever made the appointment of the member who has ceased to act, and the board of arbitration shall continue to function as if such member were a member of the board of arbitration from the beginning.

Vacancy

(8) Where the chairman of the board of arbitration is unable to enter on or to carry on his duties so as to enable a decision to be rendered within a reasonable time after his appointment, the Minister shall appoint a person to act as chairman in his place and the arbitration shall begin *de novo*.

Chairman unable to act

(9) Sections 4 to 8 and 10 to 23 of *The Statutory Powers Procedure Act, 1971* apply to proceedings under this Act and the parties to the proceedings are the Board and the teachers as represented by their negotiators.

Application of 1971, c. 47, parties

(10) *The Arbitrations Act* does not apply to the arbitration under this Act.

Application of R.S.O. 1970, c. 25

(11) Where the members of the board of arbitration are unable to agree on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs.

Where arbitrators unable to agree on procedures

(12) Where, before or during the proceedings before the board of arbitration, the parties have agreed upon some matters to be included in the award and they so notify the board in writing of the matters agreed upon, the decision of the board shall be confined to,

Agreement upon some or all matters

(a) the matters not agreed upon by the parties; and

(b) such other matters that appear to the board necessary to be decided in order to make an award,

and where, before an award is made, the parties have settled all matters in dispute and have entered into an agreement, upon the board being notified thereof in writing by the parties, the board of arbitration is dissolved.



Time for  
making  
award

(13) The board of arbitration shall make an award in writing within three months after receiving a notice referred to in subsection 1 or within such further period as may be provided from time to time in writing by the board of arbitration.

Majority  
decision to  
be decision  
of board of  
arbitration

(14) The decision of a majority of the members of the board of arbitration is the decision of the board and, if there is no majority, the decision of the chairman is the decision of the board of arbitration.

Costs of  
arbitration

(15) The Board and the teachers covered by the award shall pay the expenditures incurred by them respectively in appointing or retaining any person in relation to the arbitration, and all other expenses excluding the honorarium and expenses of the chairman, which shall be paid by the Province of Ontario, shall be shared equally by the Board and the teachers covered by the award and shall be paid within thirty days after the date of the award and, where the moneys required to be paid by the teachers are not paid within thirty days after the date of the award, The Ontario Secondary School Teachers' Federation shall pay such moneys within a further fifteen days.

Continuation  
of current  
understand-  
ing

(16) Subject to section 4 and to the award made under this Act, the provisions of the understanding in operation between the Board and its teachers on the 30th day of January, 1974 shall continue in force until the award made by the arbitrators under this Act comes into operation.

Award  
final and  
binding

(17) The award made under this Act shall also include all matters agreed upon by the Board and the teachers and is final and binding upon the Board and the teachers.

Salaries

4. The rates of salaries for teachers in Categories I to IV as set out in the Schedule to this Act are effective on and after the 1st day of September, 1973 until the award made by the board of arbitration under this Act comes into operation, and the decision of the board of arbitration shall not provide for rates of salaries in Categories I to IV less than the rates of salaries as set out in the Schedule for such Categories.

Order of  
judge

5. Where, on the application of the Board or a teacher, a judge of the Supreme Court is satisfied that the Board or any teacher has failed to comply with section 2, he may make an order requiring, as the case may be,

- (a) the Board to employ the teacher who has attempted to comply with section 2; or

- (b) the teacher who has failed to comply with section 2 to resume his employment with the Board,

in accordance with his contract of employment in effect on the 30th day of January, 1974.

6. This Act comes into force on the day it receives Royal <sup>Commence-</sup> Assent. <sup>ment</sup>

7. This Act may be cited as *The York County Board of Education Teachers Dispute Act, 1974.* <sup>Short title</sup>

## SCHEDULE

### RATE OF ANNUAL SALARY

Years of Teaching Experience	Category I Teachers	Category II Teachers	Category III Teachers	Category IV Teachers
0	\$ 7,400	\$ 7,800	\$ 8,700	\$ 9,200
1	8,200	8,600	9,500	10,000
2	9,000	9,300	10,250	10,750
3	9,500	9,850	10,800	11,350
4	9,900	10,250	11,300	11,850
5	10,600	10,850	12,100	12,650
6	11,150	11,450	12,700	13,200
7	11,550	11,900	13,250	13,750
8	12,050	12,350	13,750	14,250
9	12,500	12,800	14,250	14,750
10	13,000	13,300	14,750	15,250
11	13,550	13,750	15,350	15,850
12		14,300	16,150	16,450
13				17,400



An Act respecting a certain Dispute  
between the York County Board of  
Education and certain of its Teachers

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*1st Reading*

March 12th, 1974

*2nd Reading*

*3rd Reading*

---

THE HON. T. L. WELLS  
Minister of Education

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*(Government Bill)*

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act respecting a certain Dispute between the York  
County Board of Education and certain of its Teachers**

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THE HON. T. L. WELLS  
Minister of Education

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*(Reprinted as amended by the Committee of the Whole House)*

#### EXPLANATORY NOTE

This Act makes provision for the settlement of all matters remaining in dispute between the York County Board of Education and its secondary school teachers and requires the teachers to resume their employment with the Board and the Board to resume the employment of the teachers. The rates of salaries last offered by the Board are implemented effective from the 1st day of September, 1973 until the award of the board of arbitration comes into operation.

BILL 12

1974

## An Act respecting a certain Dispute between the York County Board of Education and certain of its Teachers

**W**HEREAS the York County Board of Education and Preamble  
its secondary school teachers have been negotiating terms of employment; and whereas these negotiations are deemed to have reached an impasse after approximately ten months of free collective bargaining and mediation; and whereas many secondary school students of York County have been severely disadvantaged for approximately six weeks due to their lack of access to a full educational program; and whereas the public interest, and in particular the interests of students, requires that teachers return to their duties, and that means be found for the settlement of the matters in dispute between the Board and its teachers;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1. In this Act,

Interpre-  
tation

- (a) "Board" means the York County Board of Education;
- (b) "Minister" means the Minister of Education;
- (c) "teachers" means the secondary school teachers employed on permanent or probationary contracts by the York County Board of Education on the 30th day of January, 1974.

**2.—(1)** The teachers who withdrew their services as a Resumption  
of employ-  
ment  
result of submitting resignations effective on the 31st day of January, 1974, shall, on the day following the day this Act comes into force, resume their employment with the Board in accordance with their contracts of employment in effect on the 30th day of January, 1974 as they may be varied by an award made under this Act, and the Board shall, on the day



following the day this Act comes into force, resume the employment of such teachers in accordance with such contracts of employment.

**Exception** (2) Nothing in this Act precludes a teacher from not resuming his employment with the Board for reasons of health or by mutual consent in writing of the teacher and the Board.

**Arbitration** **3.**—(1) The Board and The Ontario Secondary School Teachers' Federation on behalf of the teachers shall, within fifteen days after the day this Act comes into force, submit to final and binding arbitration under this Act the matters considered by the Board or the teachers, as the case may be, to be matters remaining in dispute by each sending to the Minister a notice in writing setting forth the matters considered to be matters remaining in dispute, and the Minister shall forward such notices to the board of arbitration.

**Pupil-teacher ratio** (2) Pupil-teacher ratio is arbitrable and shall be deemed to be included as a matter in dispute in the notices referred to in subsection 1.

**Duties and procedures** (3) The board of arbitration constituted under this section, upon receipt of a notice referred to in subsection 1, shall examine into and decide all matters that are in dispute between the Board and the teachers as evidenced by the notices referred to in subsection 1 and any other matters that appear to the board of arbitration to be necessary to be decided in order to make an award and shall determine its own procedures but shall give full opportunity to the Board and the negotiators for the teachers to present evidence and to make submissions.

**Appointment of arbitrators** (4) The Board and The Ontario Secondary School Teachers' Federation shall, within seven days after the day this Act comes into force, each appoint to a board of arbitration a person who has indicated his willingness to act and shall notify each other and the Minister of the name and address of the person so appointed, and where the Board or The Ontario Secondary School Teachers' Federation fails to appoint a member of the board of arbitration within such period, the Minister shall appoint such member.

**Appointment of chairman** (5) The two persons appointed under subsection 4 shall, within seven days after they have been appointed, appoint a third person to act as chairman of the board of arbitration and, where no chairman can be agreed upon within such time, the persons so appointed shall notify the Minister who shall thereupon appoint the chairman.



(6) No person shall be appointed a member of the board of arbitration who has any direct pecuniary interest in the matters coming before it or who is acting or who has, within a period of six months immediately preceding the date of his appointment, acted as mediator, solicitor, counsel, negotiator or agent of either the Board or the teachers, but no person shall be deemed to have a direct pecuniary interest by reason only of his being a ratepayer within the area of jurisdiction of the Board. Disqualification

(7) Where a member appointed under subsection 4 ceases to act by reason of withdrawal, death or otherwise before the board of arbitration has completed its work, a replacement shall be appointed by whoever made the appointment of the member who has ceased to act, and the board of arbitration shall continue to function as if such member were a member of the board of arbitration from the beginning. Vacancy

(8) Where the chairman of the board of arbitration is unable to enter on or to carry on his duties so as to enable a decision to be rendered within a reasonable time after his appointment, the Minister shall appoint a person to act as chairman in his place and the arbitration shall begin *de novo*. Chairman unable to act

(9) Sections 4 to 8 and 10 to 23 of *The Statutory Powers Procedure Act, 1971* apply to proceedings under this Act and the parties to the proceedings are the Board and the teachers as represented by their negotiators. Application of 1971, c. 47, parties

(10) *The Arbitrations Act* does not apply to the arbitration under this Act. Application of R.S.O. 1970, c. 25

(11) Where the members of the board of arbitration are unable to agree on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs. Where arbitrators unable to agree on procedures

(12) Where, before or during the proceedings before the board of arbitration, the parties have agreed upon some matters to be included in the award and they so notify the board in writing of the matters agreed upon, the decision of the board shall be confined to, Agreement upon some or all matters

(a) the matters not agreed upon by the parties; and

(b) such other matters that appear to the board necessary to be decided in order to make an award,

and where, before an award is made, the parties have settled all matters in dispute and have entered into an agreement, upon the board being notified thereof in writing by the parties, the board of arbitration is dissolved.

Time for  
making  
award

(13) The board of arbitration shall make an award in writing within three months after receiving a notice referred to in subsection 1 or, with the approval of the Minister, within such further period as may be provided from time to time in writing by the board of arbitration.

Majority  
decision to  
be decision  
of board of  
arbitration

(14) The decision of a majority of the members of the board of arbitration is the decision of the board and, if there is no majority, the decision of the chairman is the decision of the board of arbitration.

Costs of  
arbitration

(15) The Board and the teachers covered by the award shall pay the expenditures incurred by them respectively in appointing or retaining any person in relation to the arbitration, and all other expenses, excluding the honorarium and expenses of the chairman, which shall be paid by the Province of Ontario, shall be shared equally by the Board and the teachers covered by the award and shall be paid within thirty days after the date of the award and, where the moneys required to be paid by the teachers are not paid within thirty days after the date of the award, The Ontario Secondary School Teachers' Federation shall pay such moneys.

Continuation  
of current  
understand-  
ing

(16) Subject to section 4 and to the award made under this Act, the provisions of the understanding in operation between the Board and its teachers on the 30th day of January, 1974 shall continue in force until the award made by the arbitrators under this Act comes into operation.

Award  
final and  
binding

(17) The award made under this Act shall also include all matters agreed upon by the Board and the teachers and is final and binding upon the Board and the teachers.

Salaries

4. The rates of salaries for teachers in Categories I to IV as set out in the Schedule to this Act are effective on and after the 1st day of September, 1973 until the award made by the board of arbitration under this Act comes into operation, and the decision of the board of arbitration shall not provide for rates of salaries in Categories I to IV less than the rates of salaries as set out in the Schedule for such Categories.

Order of  
judge

5. Where, on the application of the Board or a teacher, a judge of the Supreme Court is satisfied that the Board or any teacher has failed to comply with section 2, he may make an order requiring, as the case may be,

- (a) the Board to employ the teacher who has attempted to comply with section 2; or

(b) the teacher who has failed to comply with section 2 to resume his employment with the Board,

in accordance with his contract of employment in effect on the 30th day of January, 1974.

6. This Act comes into force on the day it receives Royal Assent. <sup>Commence-  
ment</sup>

7. This Act may be cited as *The York County Board of Education Teachers Dispute Act, 1974.* <sup>Short title</sup>

## SCHEDULE

### RATE OF ANNUAL SALARY

Years of Teaching Experience	Category I Teachers	Category II Teachers	Category III Teachers	Category IV Teachers
0	\$ 7,400	\$ 7,800	\$ 8,700	\$ 9,200
1	8,200	8,600	9,500	10,000
2	9,000	9,300	10,250	10,750
3	9,500	9,850	10,800	11,350
4	9,900	10,250	11,300	11,850
5	10,600	10,850	12,100	12,650
6	11,150	11,450	12,700	13,200
7	11,550	11,900	13,250	13,750
8	12,050	12,350	13,750	14,250
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12		14,300	16,150	16,450
13				17,400

An Act respecting a certain Dispute  
between the York County Board of  
Education and certain of its Teachers

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*1st Reading*

March 12th, 1974

*2nd Reading*

March 13th, 1974

*3rd Reading*

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THE HON. T. L. WELLS  
Minister of Education

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*(Reprinted as amended by the  
Committee of the Whole House)*



# **BILL 12**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act respecting a certain Dispute between the York County Board of Education and certain of its Teachers**

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**THE HON. T. L. WELLS**  
**Minister of Education**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**





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its secondary school teachers have been negotiating terms of employment; and whereas these negotiations are deemed to have reached an impasse after approximately ten months of free collective bargaining and mediation; and whereas many secondary school students of York County have been severely disadvantaged for approximately six weeks due to their lack of access to a full educational program; and whereas the public interest, and in particular the interests of students, requires that teachers return to their duties, and that means be found for the settlement of the matters in dispute between the Board and its teachers;

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following the day this Act comes into force, resume the employment of such teachers in accordance with such contracts of employment.

**Exception** (2) Nothing in this Act precludes a teacher from not resuming his employment with the Board for reasons of health or by mutual consent in writing of the teacher and the Board.

**Arbitration** **3.**—(1) The Board and The Ontario Secondary School Teachers' Federation on behalf of the teachers shall, within fifteen days after the day this Act comes into force, submit to final and binding arbitration under this Act the matters considered by the Board or the teachers, as the case may be, to be matters remaining in dispute by each sending to the Minister a notice in writing setting forth the matters considered to be matters remaining in dispute, and the Minister shall forward such notices to the board of arbitration.

**Pupil-teacher ratio** (2) Pupil-teacher ratio is arbitrable and shall be deemed to be included as a matter in dispute in the notices referred to in subsection 1.

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**Appointment of arbitrators** (4) The Board and The Ontario Secondary School Teachers' Federation shall, within seven days after the day this Act comes into force, each appoint to a board of arbitration a person who has indicated his willingness to act and shall notify each other and the Minister of the name and address of the person so appointed, and where the Board or The Ontario Secondary School Teachers' Federation fails to appoint a member of the board of arbitration within such period, the Minister shall appoint such member.

**Appointment of chairman** (5) The two persons appointed under subsection 4 shall, within seven days after they have been appointed, appoint a third person to act as chairman of the board of arbitration and, where no chairman can be agreed upon within such time, the persons so appointed shall notify the Minister who shall thereupon appoint the chairman.



(6) No person shall be appointed a member of the board of arbitration who has any direct pecuniary interest in the matters coming before it or who is acting or who has, within a period of six months immediately preceding the date of his appointment, acted as mediator, solicitor, counsel, negotiator or agent of either the Board or the teachers, but no person shall be deemed to have a direct pecuniary interest by reason only of his being a ratepayer within the area of jurisdiction of the Board.

Disqualification

(7) Where a member appointed under subsection 4 ceases to act by reason of withdrawal, death or otherwise before the board of arbitration has completed its work, a replacement shall be appointed by whoever made the appointment of the member who has ceased to act, and the board of arbitration shall continue to function as if such member were a member of the board of arbitration from the beginning.

Vacancy

(8) Where the chairman of the board of arbitration is unable to enter on or to carry on his duties so as to enable a decision to be rendered within a reasonable time after his appointment, the Minister shall appoint a person to act as chairman in his place and the arbitration shall begin *de novo*.

Chairman unable to act

(9) Sections 4 to 8 and 10 to 23 of *The Statutory Powers Procedure Act, 1971* apply to proceedings under this Act and the parties to the proceedings are the Board and the teachers as represented by their negotiators.

Application of 1971, c. 47, parties

(10) *The Arbitrations Act* does not apply to the arbitration under this Act.

Application of R.S.O. 1970, c. 25

(11) Where the members of the board of arbitration are unable to agree on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs.

Where arbitrators unable to agree on procedures

(12) Where, before or during the proceedings before the board of arbitration, the parties have agreed upon some matters to be included in the award and they so notify the board in writing of the matters agreed upon, the decision of the board shall be confined to,

Agreement upon some or all matters

(a) the matters not agreed upon by the parties; and

(b) such other matters that appear to the board necessary to be decided in order to make an award,

and where, before an award is made, the parties have settled all matters in dispute and have entered into an agreement, upon the board being notified thereof in writing by the parties, the board of arbitration is dissolved.

Time for  
making  
award

(13) The board of arbitration shall make an award in writing within three months after receiving a notice referred to in subsection 1 or, with the approval of the Minister, within such further period as may be provided from time to time in writing by the board of arbitration.

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decision to  
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(14) The decision of a majority of the members of the board of arbitration is the decision of the board and, if there is no majority, the decision of the chairman is the decision of the board of arbitration.

Costs of  
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(15) The Board and the teachers covered by the award shall pay the expenditures incurred by them respectively in appointing or retaining any person in relation to the arbitration, and all other expenses, excluding the honorarium and expenses of the chairman, which shall be paid by the Province of Ontario, shall be shared equally by the Board and the teachers covered by the award and shall be paid within thirty days after the date of the award and, where the moneys required to be paid by the teachers are not paid within thirty days after the date of the award, The Ontario Secondary School Teachers' Federation shall pay such moneys.

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Order of  
judge

5. Where, on the application of the Board or a teacher, a judge of the Supreme Court is satisfied that the Board or any teacher has failed to comply with section 2, he may make an order requiring, as the case may be,

- (a) the Board to employ the teacher who has attempted to comply with section 2; or



- (b) the teacher who has failed to comply with section 2 to resume his employment with the Board,

in accordance with his contract of employment in effect on the 30th day of January, 1974.

6. This Act comes into force on the day it receives Royal <sup>Commence-</sup> Assent. <sup>ment</sup>

7. This Act may be cited as *The York County Board of* <sup>Short title</sup> *Education Teachers Dispute Act, 1974.*

## SCHEDULE

### RATE OF ANNUAL SALARY

Years of Teaching Experience	Category I Teachers	Category II Teachers	Category III Teachers	Category IV Teachers
0	\$ 7,400	\$ 7,800	\$ 8,700	\$ 9,200
1	8,200	8,600	9,500	10,000
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4	9,900	10,250	11,300	11,850
5	10,600	10,850	12,100	12,650
6	11,150	11,450	12,700	13,200
7	11,550	11,900	13,250	13,750
8	12,050	12,350	13,750	14,250
9	12,500	12,800	14,250	14,750
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12		14,300	16,150	16,450
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An Act respecting a certain Dispute  
between the York County Board of  
Education and certain of its Teachers

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*1st Reading*

March 12th, 1974

*2nd Reading*

March 13th, 1974

*3rd Reading*

March 14th, 1974

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THE HON. T. L. WELLS  
Minister of Education

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**The Regional Municipalities  
Amendment Act, 1974**

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THE HON. J. WHITE  
Treasurer of Ontario and Minister of Economics  
and Intergovernmental Affairs

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#### EXPLANATORY NOTE

The amendments are designed to clarify the authority of an area municipality to continue the procedure to obtain any required external approval to a by-law passed by a local municipality to which the area municipality is successor.

## The Regional Municipalities Amendment Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 123c of *The Regional Municipality of Ottawa-Carleton Act*, being chapter 407 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 138, section 18, is repealed and the following substituted therefor:
 

R.S.O. 1970,  
c. 407,  
s. 123c (2),  
re-enacted

(2) Where any local municipality has passed a by-law <sup>Idem</sup> that, prior to its coming into force, requires the approval of any minister of the Crown, any provincial ministry, the Municipal Board or any provincial body or agency, and such approval has not been obtained prior to the 31st day of December, 1973, the council of the successor area municipality to such local municipality shall be entitled to initiate or continue the procedure required to obtain such approval to the by-law passed by the local municipality in so far as it pertains to such area municipality, and the provisions of subsection 1 apply *mutatis mutandis* to any such by-law.

2. Subsection 8a of section 158 of *The Regional Municipality of Waterloo Act, 1972*, being chapter 105, as enacted by the Statutes of Ontario, 1973, chapter 137, section 9, is repealed and the following substituted therefor:
 

1972, c. 105,  
s. 158 (8a),  
re-enacted

(8a) Where any local municipality has passed a by-law <sup>Idem</sup> that, prior to its coming into force, requires the approval of any minister of the Crown, any provincial ministry, the Municipal Board or any provincial body or agency, and such approval has not been obtained prior to the 31st day of December, 1972, the council of the successor area municipality to such local municipality shall be entitled to initiate or continue the procedure required to obtain such approval to the by-law passed by the local municipality in so far as it pertains to such area municipality, and the provisions of subsection 8 apply *mutatis mutandis* to any such by-law.



1973, c. 60,  
s. 115 (8),  
re-enacted

3. Subsection 8 of section 115 of *The Regional Municipality of Peel Act, 1973*, being chapter 60, is repealed and the following substituted therefor:

Idem

(8) Where any local municipality has passed a by-law that, prior to its coming into force, requires the approval of any minister of the Crown, any provincial ministry, the Municipal Board or any provincial body or agency, and such approval has not been obtained prior to the 31st day of December, 1973, the council of the successor area municipality to such local municipality shall be entitled to initiate or continue the procedure required to obtain such approval to the by-law passed by the local municipality in so far as it pertains to such area municipality, and the provision of subsection 7 apply *mutatis mutandis* to any such by-law.

1973, c. 70,  
s. 115 (8),  
re-enacted

4. Subsection 8 of section 115 of *The Regional Municipality of Halton Act, 1973*, being chapter 70, is repealed and the following substituted therefor:

Idem

(8) Where any local municipality has passed a by-law that, prior to its coming into force, requires the approval of any minister of the Crown, any provincial ministry, the Municipal Board or any provincial body or agency, and such approval has not been obtained prior to the 31st day of December, 1973, the council of the successor area municipality to such local municipality shall be entitled to initiate or continue the procedure required to obtain such approval to the by-law passed by the local municipality in so far as it pertains to such area municipality, and the provision of subsection 7 apply *mutatis mutandis* to any such by-law.

1973, c. 74,  
s. 115 (8),  
re-enacted

5. Subsection 8 of section 115 of *The Regional Municipality of Hamilton-Wentworth Act, 1973*, being chapter 74, is repealed and the following substituted therefor:

Idem

(8) Where any local municipality has passed a by-law that, prior to its coming into force, requires the approval of any minister of the Crown, any provincial ministry, the Municipal Board or any provincial body or agency, and such approval has not been obtained prior to the 31st day of December, 1973, the council of the successor area municipality to such local municipality shall be entitled to initiate or continue the procedure required to obtain such approval to the by-law passed by the local municipality in so far as it pertains to such area municipality, and the provision of subsection 7 apply *mutatis mutandis* to any such by-law.

1973, c. 78,  
s. 123 (8),  
re-enacted

6. Subsection 8 of section 123 of *The Regional Municipality of Durham Act, 1973*, being chapter 78, as re-enacted by the

Statutes of Ontario, 1973, chapter 147, section 10, is repealed and the following substituted therefor:

(8) Where any local municipality has passed a by-law <sup>By-laws</sup> that, prior to its coming into force, requires the approval of any minister of the Crown, any provincial ministry, the Municipal Board or any provincial body or agency, and such approval has not been obtained prior to the 31st day of December, 1973, the council of the area municipality, the council of The Municipality of Metropolitan Toronto, or the council of the Borough of Scarborough, as the case may be, which is successor to such local municipality shall be entitled to initiate or continue the procedure required to obtain such approval to the by-law passed by the local municipality in so far as it pertains to such area municipality, or to The Municipality of Metropolitan Toronto or to the Borough of Scarborough and the provisions of subsection 7 apply *mutatis mutandis* to any such by-law.

7. Subsection 9 of section 119 of *The Regional Municipality of* <sup>1973, c. 96,</sup> *Haldimand-Norfolk Act, 1973*, being chapter 96, as enacted <sup>s. 119 (9),</sup> *re-enacted* by the Statutes of Ontario, 1973, chapter 155, section 4, is repealed and the following substituted therefor:

(9) Where any local municipality has passed a by-law <sup>Idem</sup> that, prior to its coming into force, requires the approval of any minister of the Crown, any provincial ministry, the Municipal Board or any provincial body or agency, and such approval has not been obtained prior to the 31st day of March, 1974, the council of the successor area municipality to such local municipality shall be entitled to initiate or continue the procedure required to obtain such approval to the by-law passed by the local municipality in so far as it pertains to such area municipality, and the provisions of subsection 8 apply *mutatis mutandis* to any such by-law.

- 8.—(1) This Act, except sections 1 to 7, comes into force on the <sup>Commence-</sup> day it receives Royal Assent. <sup>ment</sup>

(2) Section 2 shall be deemed to have come into force on the <sup>Idem</sup> 1st day of January, 1973.

(3) Sections 1, 3, 4, 5 and 6 shall be deemed to have come <sup>Idem</sup> into force on the 1st day of January, 1974.

(4) Section 7 comes into force on the 1st day of April, 1974. <sup>Idem</sup>

9. This Act may be cited as *The Regional Municipalities Amend-* <sup>Short title</sup> *ment Act, 1974.*





The Regional Municipalities  
Amendment Act, 1974

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*1st Reading*

March 14th, 1974

*2nd Reading*

*3rd Reading*

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THE HON. J. WHITE  
Treasurer of Ontario and Minister of  
Economics and Intergovernmental  
Affairs

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*(Government Bill)*

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# **BILL 13**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **The Regional Municipalities Amendment Act, 1974**

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**THE HON. J. WHITE**  
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BILL 13

1974

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R.S.O. 1970,  
c. 407,  
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(2) Where any local municipality has passed a by-law <sup>idem</sup> that, prior to its coming into force, requires the approval of any minister of the Crown, any provincial ministry, the Municipal Board or any provincial body or agency, and such approval has not been obtained prior to the 31st day of December, 1973, the council of the successor area municipality to such local municipality shall be entitled to initiate or continue the procedure required to obtain such approval to the by-law passed by the local municipality in so far as it pertains to such area municipality, and the provisions of subsection 1 apply *mutatis mutandis* to any such by-law.

2. Subsection 8a of section 158 of *The Regional Municipality of Waterloo Act*, 1972, being chapter 105, as enacted by the Statutes of Ontario, 1973, chapter 137, section 9, is repealed and the following substituted therefor:
 

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s. 158 (8a),  
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(8a) Where any local municipality has passed a by-law <sup>idem</sup> that, prior to its coming into force, requires the approval of any minister of the Crown, any provincial ministry, the Municipal Board or any provincial body or agency, and such approval has not been obtained prior to the 31st day of December, 1972, the council of the successor area municipality to such local municipality shall be entitled to initiate or continue the procedure required to obtain such approval to the by-law passed by the local municipality in so far as it pertains to such area municipality, and the provisions of subsection 8 apply *mutatis mutandis* to any such by-law.

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4. Subsection 8 of section 115 of *The Regional Municipality of Halton Act, 1973*, being chapter 70, is repealed and the following substituted therefor:

Idem

(8) Where any local municipality has passed a by-law that, prior to its coming into force, requires the approval of any minister of the Crown, any provincial ministry, the Municipal Board or any provincial body or agency, and such approval has not been obtained prior to the 31st day of December, 1973, the council of the successor area municipality to such local municipality shall be entitled to initiate or continue the procedure required to obtain such approval to the by-law passed by the local municipality in so far as it pertains to such area municipality, and the provision of subsection 7 apply *mutatis mutandis* to any such by-law.

1973, c. 74,  
s. 115 (8),  
re-enacted

5. Subsection 8 of section 115 of *The Regional Municipality of Hamilton-Wentworth Act, 1973*, being chapter 74, is repealed and the following substituted therefor:

Idem

(8) Where any local municipality has passed a by-law that, prior to its coming into force, requires the approval of any minister of the Crown, any provincial ministry, the Municipal Board or any provincial body or agency, and such approval has not been obtained prior to the 31st day of December, 1973, the council of the successor area municipality to such local municipality shall be entitled to initiate or continue the procedure required to obtain such approval to the by-law passed by the local municipality in so far as it pertains to such area municipality, and the provision of subsection 7 apply *mutatis mutandis* to any such by-law.

1973, c. 78,  
s. 123 (8),  
re-enacted

6. Subsection 8 of section 123 of *The Regional Municipality of Durham Act, 1973*, being chapter 78, as re-enacted by the



Statutes of Ontario, 1973, chapter 147, section 10, is repealed and the following substituted therefor:

(8) Where any local municipality has passed a by-law <sup>By-law</sup> that, prior to its coming into force, requires the approval of any minister of the Crown, any provincial ministry, the Municipal Board or any provincial body or agency, and such approval has not been obtained prior to the 31st day of December, 1973, the council of the area municipality, the council of The Municipality of Metropolitan Toronto, or the council of the Borough of Scarborough, as the case may be, which is successor to such local municipality shall be entitled to initiate or continue the procedure required to obtain such approval to the by-law passed by the local municipality in so far as it pertains to such area municipality, or to The Municipality of Metropolitan Toronto or to the Borough of Scarborough and the provisions of subsection 7 apply *mutatis mutandis* to any such by-law.

7. Subsection 9 of section 119 of *The Regional Municipality of Haldimand-Norfolk Act, 1973*, being chapter 96, as enacted <sup>1973, c. 96, s. 119 (9), re-enacted</sup> by the Statutes of Ontario, 1973, chapter 155, section 4, is repealed and the following substituted therefor:

(9) Where any local municipality has passed a by-law <sup>Idem</sup> that, prior to its coming into force, requires the approval of any minister of the Crown, any provincial ministry, the Municipal Board or any provincial body or agency, and such approval has not been obtained prior to the 31st day of March, 1974, the council of the successor area municipality to such local municipality shall be entitled to initiate or continue the procedure required to obtain such approval to the by-law passed by the local municipality in so far as it pertains to such area municipality, and the provisions of subsection 8 apply *mutatis mutandis* to any such by-law.

- 8.—(1) This Act, except sections 1 to 7, comes into force on the day it receives Royal Assent. <sup>Commence-  
ment</sup>

(2) Section 2 shall be deemed to have come into force on the 1st day of January, 1973. <sup>Idem</sup>

(3) Sections 1, 3, 4, 5 and 6 shall be deemed to have come into force on the 1st day of January, 1974. <sup>Idem</sup>

(4) Section 7 comes into force on the 1st day of April, 1974. <sup>Idem</sup>

9. This Act may be cited as *The Regional Municipalities Amendment Act, 1974*. <sup>Short title</sup>







The Regional Municipalities  
Amendment Act, 1974

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*1st Reading*

March 14th, 1974

*2nd Reading*

April 2nd, 1974

*3rd Reading*

April 4th, 1974

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THE HON. J. WHITE  
Treasurer of Ontario and Minister of  
Economics and Intergovernmental  
Affairs

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act to amend  
The Territorial Division Act**

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THE HON. J. WHITE  
Treasurer of Ontario and Minister of Economics  
and Intergovernmental Affairs

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#### EXPLANATORY NOTE

The Bill in the main reflects the changes in municipal structure brought about by the establishment of regional government in various areas of the Province. Certain amalgamations, annexations and dissolutions are taken into account and a number of geographic townships are transferred from the Territorial District of Timiskaming to that of Cochrane, the effect of which is to straighten the boundary between the two districts. Additionally, the line in Lake Ontario defining the limits of townships lying on the Lake west of the east boundary of Metropolitan Toronto is redefined to clarify its precise location.



ELL 14

1974

## An Act to amend The Territorial Division Act

HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of the Province of Ontario, enacts as  
follows:

- 1.—(1) Paragraph 5 of section 1 of *The Territorial Division Act*, s. 1,  
being chapter 458 of the Revised Statutes of Ontario, 1970, par. 5,  
is repealed and the following substituted therefor: re-enacted

### 5.—THE REGIONAL MUNICIPALITY OF DURHAM Durham

consists of the municipalities from time to time included  
within the Regional Area as defined in *The Regional Municipality of Durham Act, 1973*. 1973, c. 78

- (2) Paragraph 12 of the said section 1 is repealed and the following substituted therefor: s. 1,  
par. 12,  
re-enacted

### 12.—THE REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

Haldimand-  
Norfolk

consists of the municipalities from time to time included  
within the Regional Area as defined in *The Regional Municipality of Haldimand-Norfolk Act, 1973*. 1973, c. 98

- (3) Paragraph 13 of the said section 1 is repealed and the following substituted therefor: s. 1,  
par. 13,  
re-enacted

### 13.—THE REGIONAL MUNICIPALITY OF HALTON Halton

consists of the municipalities from time to time included  
within the Regional Area as defined in *The Regional Municipality of Halton Act, 1973*. 1973, c. 70

- (4) The said section 1 is amended by adding thereto the following paragraph: s. 1,  
amended

Hamilton-  
Wentworth

### 13A.—THE REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

1973, c. 74

consists of the municipalities from time to time included in the Regional Area as defined in *The Regional Municipality of Hamilton-Wentworth Act, 1973*.

s. 1,  
par. 18 (d),  
re-enacted

- (5) Clause *d* of paragraph 18 of the said section 1 is repealed and the following substituted therefor:

(d) the townships of,  

Bathurst,	Montague,
Beckwith,	North Burgess,
Darling,	North Elmsley,
Drummond,	Pakenham,
Lanark,	Ramsay,
Lavant, Dalhousie	South Sherbrooke.
and North	
Sherbrooke,	

s. 1,  
par. 23,  
repealed

- (6) Paragraph 23 of the said section 1 is repealed.

s. 1,  
par. 24 (a),  
amended

- (7) Clause *a* of paragraph 24 of the said section 1 is amended by adding at the end thereof "Port Hope".

s. 1,  
par. 24 (c),  
amended

- (8) Clause *c* of paragraph 24 of the said section 1 is amended by inserting after "Hamilton" in the first column "Hope" and by striking out "South Monaghan" in the second column.

s. 1,  
par. 25,  
repealed

- (9) Paragraph 25 of the said section 1 is repealed.

s. 1,  
par. 28,  
re-enacted

- (10) Paragraph 28 of the said section 1 is repealed and the following substituted therefor:

Peel

### 28.—THE REGIONAL MUNICIPALITY OF PEEL

1973, c. 60

consists of the municipalities from time to time included within the Regional Area as defined in *The Regional Municipality of Peel Act, 1973*.

s. 1,  
par. 30 (b),  
amended

- (11) Clause *b* of paragraph 30 of the said section 1 is amended by inserting after "Lakefield" in the first line "Millbrook".

s. 1,  
par. 30 (c),  
amended

- (12) Clause *c* of paragraph 30 of the said section 1 is amended by inserting after "Burleigh and Anstruther" in the first column "Cavan" and by inserting after "Smith" in the second column "South Monaghan".

s. 1,  
par. 35 (b),  
amended

- (13) Clause *b* of paragraph 35 of the said section 1 is amended by adding at the end thereof "Wasaga Beach".

- (14) Clause *c* of paragraph 35 of the said section 1 is amended by striking out "Wasaga Beach" in the third line. s. 1,  
par. 35 (c),  
amended
- (15) Clause *d* of paragraph 35 of the said section 1 is amended by inserting after "Innisfil" in the first column "Mara" and by inserting after "Oro" in the second column "Rama". s. 1,  
par. 35 (d),  
amended
- (16) Clause *c* of paragraph 38 of the said section 1 is amended by inserting after "Laxton, Digby and Longford" in the second column "Manvers". s. 1,  
par. 38 (c),  
amended
- (17) Paragraph 39 of the said section 1 is repealed and the following substituted therefor: s. 1,  
par. 39,  
re-enacted

### 39.—THE REGIONAL MUNICIPALITY OF WATERLOO

Waterloo

consists of the municipalities from time to time included within the Regional Area as defined in *The Regional Municipality of Waterloo Act, 1972*. 1972, c. 106

- (18) Paragraph 41 of the said section 1 is repealed. s. 1,  
par. 41,  
repealed
- (19) Paragraph 45 of the said section 1 is amended by re-lettering clause *a* as clause *aa* and by adding thereto the following clause: s. 1,  
par. 45,  
amended
- (a) the City of Timmins.
- (20) Clause *aa* of paragraph 45 of the said section 1, as relettered by subsection 19, is amended by striking out "Timmins" in the second line. s. 1,  
par. 45 (aa),  
amended
- (21) Clause *b* of paragraph 45 of the said section 1 is amended by inserting after, s. 1,  
par. 45 (b),  
amended
- (a) "Adair" in the first column "Adams";
- (b) "Belford" in the first column "Ben Nevis";
- (c) "Beniah" in the first column "Benoit";
- (d) "Birdsall" in the first column "Bisley, Black, Blackstock";
- (e) "Eilber" in the first column "Eldorado";
- (f) "Pliny" in the first column "Pontiac";
- (g) "Poulett" in the first column "Price";



- (h) "Jessop" in the second column "Keefer";
- (i) "Clergue" in the third column "Clifford";
- (j) "Dempsey" in the third column "Denton";
- (k) "Langemarck" in the third column "Langmuir";
- (l) "McCuaig" in the third column "McEvay";
- (m) "McQuibban" in the third column "Melba";
- (n) "Thorning" in the third column "Thorn Timmins"; and
- (o) "Tolmie" in the third column "Tolstoi".

s. 1,  
par. 45,  
amended

- (22) The description immediately following clause *b* of paragraph 45 of the said section 1 is amended by striking out "Dokis" in the sixteenth line and inserting in lieu thereof "Pontiac", by striking out "Whitesides" in the seventeenth line and inserting in lieu thereof "Keefer" and by striking out "Township of Whitesides to the northwest corner thereof" in the eighteenth and nineteen lines and inserting in lieu thereof "townships of Keefer and Whitesides to the northwest corner of the Township of Whitesides".

s. 1,  
par. 49 (c),  
amended

- (23) Clause *c* of paragraph 49 of the said section 1 is amended by inserting after "Field" in the third column "Finlayson (part)".

s. 1,  
par. 49,  
amended

- (24) The description immediately following clause *c* of paragraph 49 of the said section 1 is amended by striking out "southwesterly corner of the last-mentioned township; thence northerly along the westerly boundary of the Township of Finlayson to the northwesterly corner thereof; thence easterly along the northerly boundary of the Township of Finlayson" in the sixty-first, sixty-second, sixty-third, sixty-fourth and sixty-fifth lines and inserting in lieu thereof "easterly limit of the Township of Lake of Bays; thence northerly along the easterly boundary of the Township of Lake of Bays to the northwesterly corner thereof; thence westerly along the northerly boundary of the Township of Lake of Bays".

s. 1,  
par. 52 (a, b),  
re-enacted

- (25) Clauses *a* and *b* of paragraph 52 of the said section are repealed and the following substituted therefor:

- (a) The Regional Municipality of Sudbury composed of the municipalities from time to time included

within the Regional Area as defined in *The Regional Municipality of Sudbury Act, 1972*; 1972, c. 104

(b) the towns of Espanola, Massey, Webbwood.

(26) Clause *a* of paragraph 54 of the said section 1 is amended by inserting after "Haileybury" in the first line "Kirkland Lake". s. 1,  
par. 54 (a),  
amended

(27) Clause *c* of paragraph 54 of the said section 1 is amended by striking out "Adams", "Ben Nevis", "Benoit", "Eldorado", "Keefer" and "Langmuir" in the first column, by striking out "Bisley", "Black", "Blackstock", "McEvay" and "Melba" in the second column and by striking out "Clifford", "Denton", "Pontiac", "Price", "Thorneloe", "Timmins" and "Tolstoi" in the third column. s. 1,  
par. 54 (c),  
amended

(28) The description immediately following clause *c* of paragraph 54 of the said section 1 is amended by striking out "Pharand, Hillary and Keefer" in the twenty-second line and inserting in lieu thereof "Pharand and Hillary" and by striking out "north" in the twenty-fourth line and inserting in lieu thereof "south". s. 1,  
par. 54,  
amended

2.—(1) Clause *a* of paragraph 1 of section 2 of the said Act is repealed and the following substituted therefor: s. 2,  
par. 1 (a),  
re-enacted

(a) the improvement districts of the North Shore and White River.

(2) Clause *b* of paragraph 1 of the said section 2 is amended by striking out "Macdonald and Meredith" in the second column and inserting in lieu thereof "Macdonald, Meredith and Aberdeen Additional". s. 2,  
par. 1 (b),  
amended

(3) Clause *a* of paragraph 2 of the said section 2 is repealed. s. 2,  
par. 2 (a),  
repealed

(4) Clause *b* of paragraph 2 of the said section 2 is repealed and the following substituted therefor: s. 2,  
par. 2 (b),  
re-enacted

(b) the townships of,

Black River-Matheson,	Kendrey,
Fauquier,	Owens, Williamson and
Glackmeyer,	Idington,
	Shackleton and Machin.

(5) Clause *a* of paragraph 3 of the said section 2 is amended by striking out "Ear Falls" in the first and second lines. s. 2,  
par. 3 (a),  
amended



s. 2,  
par. 3 (b),  
re-enacted

- (6) Clause *b* of paragraph 3 of the said section 2 repealed and the following substituted therefor:

(b) the townships of,

Ear Falls,	Machin,
Ignace,	Red Lake.
Jaffray and Melick,	

s. 2,  
par. 8 (a),  
repealed

- (7) Clause *a* of paragraph 8 of the said section 2 repealed.

s. 2,  
par. 8 (b),  
re-enacted

- (8) Clause *b* of paragraph 8 of the said section 2 repealed and the following substituted therefor:

(b) the townships of,

Baldwin,	Cosby, Mason and	Nairn,
Casimir, Jennings	Martland,	Ratter and Dunnet,
and Appleby,	Hagar,	Salter, May and
Chapleau,	Hallam,	Harrow.

s. 2,  
par. 10 (a),  
re-enacted

- (9) Clause *a* of paragraph 10 of the said section 2 repealed and the following substituted therefor:

(a) the Improvement District of Gauthier.

s. 2,  
par. 10 (b),  
amended

- (10) Clause *b* of paragraph 10 of the said section 2 amended by striking out "Teck" in the third column.

s. 4 (1),  
par. 3,  
repealed

3. Paragraph 3 of subsection 1 of section 4 of the said Act repealed.

s. 8 (2),  
re-enacted

4. Subsection 2 of section 8 of the said Act is repealed and the following substituted therefor:

Exception

(2) Subsection 1 does not apply to that part of Ontario at the head of Lake Ontario lying west of the east boundary of The Municipality of Metropolitan Toronto, but in that part the limits of all townships on either side of the Lake extend to the following described line:

Commencing at a point where the east boundary of The Municipality of Metropolitan Toronto meets the International Boundary; thence westerly along the line of the International Boundary to the point of its angle southerly; thence westerly in a straight line to and along the centre line of the Burlington Canal to its point of entry into Hamilton Harbour.

5. (1) This Act, except subsections 1 to 20, and 23 to 26 <sup>Commence-</sup>  
of section 1, subsection 1 and subsections 3 to 10 of <sup>ment</sup>  
section 2 and section 3, comes into force on the day it  
receives Royal Assent.
- (2) Subsections 23 and 24 of section 1 shall be deemed to <sup>Idem</sup>  
have come into force on the 1st day of January, 1971.
- (3) Subsection 26 of section 1 and subsection 10 of section <sup>Idem</sup>  
2 shall be deemed to have come into force on the 1st day  
of January, 1972.
- (4) Subsections 17, 19, 20 and 25 of section 1 and sub- <sup>Idem</sup>  
sections 3 to 9 of section 2 shall be deemed to have  
come into force on the 1st day of January, 1973.
- (5) Subsection 1 of section 2 shall be deemed to have come <sup>Idem</sup>  
into force on the 1st day of March, 1973.
- (6) Subsections 1, 3, 4, 5, 7 to 16 and 18 of section 1 and <sup>Idem</sup>  
section 3 shall be deemed to have come into force on  
the 1st day of January, 1974.
- (7) Subsections 2 and 6 of section 1 come into force on <sup>Idem</sup>  
the 1st day of April, 1974.
6. This Act may be cited as *The Territorial Division Amend-* <sup>Short title</sup>  
*ment Act, 1974.*





An Act to amend  
The Territorial Division Act

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*1st Reading*

March 14th, 1974

*2nd Reading*

*3rd Reading*

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THE HON. J. WHITE  
Treasurer of Ontario and Minister of  
Economics and Intergovernmental  
Affairs

---

(*Government Bill*)



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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act to amend  
The Territorial Division Act**

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THE HON. J. WHITE  
Treasurer of Ontario and Minister of Economics  
and Intergovernmental Affairs

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*(Reprinted as amended by the Committee of the Whole House)*

#### EXPLANATORY NOTE

The Bill in the main reflects the changes in municipal structure brought about by the establishment of regional government in various areas of the Province. Certain amalgamations, annexations and dissolutions are taken into account and a number of geographic townships are transferred from the Territorial District of Timiskaming to that of Cochrane, the effect of which is to straighten the boundary between the two districts. Additionally, the line in Lake Ontario defining the limits of townships lying on the Lake west of the east boundary of Metropolitan Toronto is redefined to clarify its precise location.

## An Act to amend The Territorial Division Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 5 of section 1 of *The Territorial Division Act*, <sup>s. 1, par. 5, re-enacted</sup> being chapter 458 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

### 5.—THE REGIONAL MUNICIPALITY OF DURHAM Durham

consists of the municipalities from time to time included within the Regional Area as defined in *The Regional Municipality of Durham Act, 1973*. <sup>1973, c. 78</sup>

- (2) Paragraph 12 of the said section 1 is repealed and the following substituted therefor: <sup>s. 1, par. 12, re-enacted</sup>

### 12.—THE REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK Haldimand-Norfolk

consists of the municipalities from time to time included within the Regional Area as defined in *The Regional Municipality of Haldimand-Norfolk Act, 1973*. <sup>1973, c. 96</sup>

- (3) Paragraph 13 of the said section 1 is repealed and the following substituted therefor: <sup>s. 1, par. 13, re-enacted</sup>

### 13.—THE REGIONAL MUNICIPALITY OF HALTON Halton

consists of the municipalities from time to time included within the Regional Area as defined in *The Regional Municipality of Halton Act, 1973*. <sup>1973, c. 70</sup>

- (4) The said section 1 is amended by adding thereto the following paragraph: <sup>s. 1, amended</sup>

Hamilton-  
Wentworth13A.—THE REGIONAL MUNICIPALITY OF  
HAMILTON-WENTWORTH

1973, c. 74

consists of the municipalities from time to time included in the Regional Area as defined in *The Regional Municipality of Hamilton-Wentworth Act, 1973*.

s. 1,  
par. 18 (d),  
re-enacted

- (5) Clause *d* of paragraph 18 of the said section 1 is repealed and the following substituted therefor:

(d) the townships of,  
                   Bathurst,                   Montague,  
                   Beckwith,               North Burgess,  
                   Darling,               North Elmsley,  
                   Drummond,           Pakenham,  
                   Lanark,               Ramsay,  
                   Lavant, Dalhousie     South Sherbrooke.  
                   and North  
                   Sherbrooke,

s. 1,  
par. 23,  
repealed

- (6) Paragraph 23 of the said section 1 is repealed.

s. 1,  
par. 24 (a),  
amended

- (7) Clause *a* of paragraph 24 of the said section 1 is amended by adding at the end thereof "Port Hope".

s. 1,  
par. 24 (c),  
amended

- (8) Clause *c* of paragraph 24 of the said section 1 is amended by inserting after "Hamilton" in the first column "Hope" and by striking out "South Monaghan" in the second column.

s. 1,  
par. 25,  
repealed

- (9) Paragraph 25 of the said section 1 is repealed.

s. 1,  
par. 28,  
re-enacted

- (10) Paragraph 28 of the said section 1 is repealed and the following substituted therefor:

Peel

## 28.—THE REGIONAL MUNICIPALITY OF PEEL

1973, c. 60

consists of the municipalities from time to time included within the Regional Area as defined in *The Regional Municipality of Peel Act, 1973*.

s. 1,  
par. 30 (b),  
amended

- (11) Clause *b* of paragraph 30 of the said section 1 is amended by inserting after "Lakefield" in the first line "Millbrook".

s. 1,  
par. 30 (c),  
amended

- (12) Clause *c* of paragraph 30 of the said section 1 is amended by inserting after "Burleigh and Anstruther" in the first column "Cavan" and by inserting after "Smith" in the second column "South Monaghan".

s. 1,  
par. 35 (b),  
amended

- (13) Clause *b* of paragraph 35 of the said section 1 is amended by adding at the end thereof "Wasaga Beach".



- (14) Clause *c* of paragraph 35 of the said section 1 is amended by striking out "Wasaga Beach" in the third line. s. 1,  
par. 35 (c),  
amended
- (15) Clause *d* of paragraph 35 of the said section 1 is amended by inserting after "Innisfil" in the first column "Mara" and by inserting after "Oro" in the second column "Rama". s. 1,  
par. 35 (d),  
amended
- (16) Clause *c* of paragraph 38 of the said section 1 is amended by inserting after "Laxton, Digby and Longford" in the second column "Manvers". s. 1,  
par. 38 (c),  
amended
- (17) Paragraph 39 of the said section 1 is repealed and the following substituted therefor: s. 1,  
par. 39,  
re-enacted

### 39.—THE REGIONAL MUNICIPALITY OF WATERLOO

Waterloo

consists of the municipalities from time to time included within the Regional Area as defined in *The Regional Municipality of Waterloo Act, 1972*. 1972, c. 105

- (18) Paragraph 41 of the said section 1 is repealed. s. 1,  
par. 41,  
repealed
- (19) Paragraph 45 of the said section 1 is amended by re-lettering clause *a* as clause *aa* and by adding thereto the following clause: s. 1,  
par. 45,  
amended
- (a) the City of Timmins.
- (20) Clause *aa* of paragraph 45 of the said section 1, as relettered by subsection 19, is amended by striking out "Timmins" in the second line. s. 1,  
par. 45 (aa),  
amended
- (21) Clause *b* of paragraph 45 of the said section 1 is amended by inserting after, s. 1,  
par. 45 (b),  
amended

- (a) "Adair" in the first column "Adams";
- (b) "Belford" in the first column "Ben Nevis";
- (c) "Beniah" in the first column "Benoit";
- (d) "Birdsall" in the first column "Bisley, Black, Blackstock";
- (e) "Eilber" in the first column "Eldorado";
- (f) "Pliny" in the first column "Pontiac";
- (g) "Poulett" in the first column "Price";



- (h) "Jessop" in the second column "Keefer";
- (i) "Clergue" in the third column "Clifford";
- (j) "Dempsay" in the third column "Denton";
- (k) "Langemarck" in the third column "Langmuir";
- (l) "McCuaig" in the third column "McEvay";
- (m) "McQuibban" in the third column "Melba";
- (n) "Thorning" in the third column "Thornloe Timmins"; and
- (o) "Tolmie" in the third column "Tolstoi".

s. 1,  
par. 45,  
amended

- (22) The description immediately following clause *b* of paragraph 45 of the said section 1 is amended by striking out "Dokis" in the sixteenth line and inserting in lieu thereof "Pontiac", by striking out "Whitesides" in the seventeenth line and inserting in lieu thereof "Keefer and by striking out "Township of Whitesides to the northwest corner thereof" in the eighteenth and nineteenth lines and inserting in lieu thereof "townships of Keefer and Whitesides to the northwest corner of the Township of Whitesides".

s. 1,  
par. 49 (c),  
amended

- (23) Clause *c* of paragraph 49 of the said section 1 is amended by inserting after "Field" in the third column "Finlayson (part)".

s. 1,  
par. 49,  
amended

- (24) The description immediately following clause *c* of paragraph 49 of the said section 1 is amended by striking out "southwesterly corner of the last-mentioned township; thence northerly along the westerly boundary of the Township of Finlayson to the northwesterly corner thereof; thence easterly along the northerly boundary of the Township of Finlayson in the Territorial District of Nipissing" in the sixty-first, sixty-second, sixty-third, sixty-fourth and sixty-fifth lines and inserting in lieu thereof "easterly limit of the Township of Lake of Bays; thence northerly along the easterly boundary of the Township of Lake of Bays to the northerly corner thereof; thence westerly along the northerly boundary of the Township of Lake of Bays in the Territorial District of Muskoka".

s. 1,  
par. 52 (a, b),  
re-enacted

- (25) Clauses *a* and *b* of paragraph 52 of the said section are repealed and the following substituted therefor:

- (a) The Regional Municipality of Sudbury composed of the municipalities from time to time included

within the Regional Area as defined in *The Regional Municipality of Sudbury Act, 1972*; c. 104

(b) the towns of Espanola, Massey, Webbwood.

(26) Clause *a* of paragraph 54 of the said section 1 is amended by inserting after "Haileybury" in the first line "Kirkland Lake". s. 1,  
par. 54 (a),  
amended

(27) Clause *c* of paragraph 54 of the said section 1 is amended by striking out "Adams", "Ben Nevis", "Benoit", "Eldorado", "Keefer" and "Langmuir" in the first column, by striking out "Bisley", "Black", "Blackstock", "McEvay" and "Melba" in the second column and by striking out "Clifford", "Denton", "Pontiac", "Price", "Thorneloe", "Timmins" and "Tolstoi" in the third column. s. 1,  
par. 54 (c),  
amended

(28) The description immediately following clause *c* of paragraph 54 of the said section 1 is amended by striking out "Pharand, Hillary and Keefer" in the twenty-second line and inserting in lieu thereof "Pharand and Hillary" and by striking out "north" in the twenty-fourth line and inserting in lieu thereof "south". s. 1,  
par. 54,  
amended

2.—(1) Clause *a* of paragraph 1 of section 2 of the said Act is repealed and the following substituted therefor: s. 2,  
par. 1 (a),  
re-enacted

(a) the improvement districts of the North Shore and White River.

(2) Clause *b* of paragraph 1 of the said section 2 is amended by striking out "Macdonald and Meredith" in the second column and inserting in lieu thereof "Macdonald, Meredith and Aberdeen Additional". s. 2,  
par. 1 (b),  
amended

(3) Clause *a* of paragraph 2 of the said section 2 is repealed. s. 2,  
par. 2 (a),  
repealed

(4) Clause *b* of paragraph 2 of the said section 2 is repealed and the following substituted therefor: s. 2,  
par. 2 (b),  
re-enacted

(b) the townships of,

Black River-Matheson,	Kendrey,
Fauquier,	Owens, Williamson and
Glackmeyer,	Idington,
	Shackleton and Machin.

(5) Clause *a* of paragraph 3 of the said section 2 is amended by striking out "Ear Falls" in the first and second lines. s. 2,  
par. 3 (a),  
amended

s. 2,  
par. 3 (b),  
re-enacted

- (6) Clause *b* of paragraph 3 of the said section 2 is repealed and the following substituted therefor:

(b) the townships of,

Ear Falls,	Machin,
Ignace,	Red Lake.
Jaffray and Melick,	

s. 2,  
par. 8 (a),  
repealed

- (7) Clause *a* of paragraph 8 of the said section 2 is repealed.

s. 2,  
par. 8 (b),  
re-enacted

- (8) Clause *b* of paragraph 8 of the said section 2 is repealed and the following substituted therefor:

(b) the townships of,

Baldwin,	Cosby, Mason and	Nairn,
Casimir, Jennings	Martland,	Ratter and Dunnet,
and Appleby,	Hagar,	Salter, May and
Chapleau,	Hallam,	Harrow.

s. 2,  
par. 10 (a),  
re-enacted

- (9) Clause *a* of paragraph 10 of the said section 2 is repealed and the following substituted therefor:

(a) the Improvement District of Gauthier.

s. 2,  
par. 10 (b),  
amended

- (10) Clause *b* of paragraph 10 of the said section 2 is amended by striking out "Teck" in the third column.

s. 4 (1),  
par. 3,  
repealed

3. Paragraph 3 of subsection 1 of section 4 of the said Act is repealed.

s. 8 (2),  
re-enacted

4. Subsection 2 of section 8 of the said Act is repealed and the following substituted therefor:

Exception

(2) Subsection 1 does not apply to that part of Ontario at the head of Lake Ontario lying west of the east boundary of The Municipality of Metropolitan Toronto, but in that part the limits of all townships on either side of the Lake extend to the following described line:

Commencing at a point where the east boundary of The Municipality of Metropolitan Toronto meets the International Boundary; thence westerly along the line of the International Boundary to the point of its angle southerly; thence westerly in a straight line to and along the centre line of the Burlington Canal to its point of entry into Hamilton Harbour.



- 5.—(1) This Act, except subsections 1 to 20, and 23 to 26 <sup>Commence-  
ment</sup> of section 1, subsection 1 and subsections 3 to 10 of section 2 and section 3, comes into force on the day it receives Royal Assent.
- (2) Subsections 23 and 24 of section 1 shall be deemed to <sup>Idem</sup> have come into force on the 1st day of January, 1971.
- (3) Subsection 26 of section 1 and subsection 10 of section <sup>Idem</sup> 2 shall be deemed to have come into force on the 1st day of January, 1972.
- (4) Subsections 17, 19, 20 and 25 of section 1 and sub-<sup>Idem</sup> sections 3 to 9 of section 2 shall be deemed to have come into force on the 1st day of January, 1973.
- (5) Subsection 1 of section 2 shall be deemed to have come <sup>Idem</sup> into force on the 1st day of March, 1973.
- (6) Subsections 1, 3, 4, 5, 7 to 16 and 18 of section 1 and <sup>Idem</sup> section 3 shall be deemed to have come into force on the 1st day of January, 1974.
- (7) Subsections 2 and 6 of section 1 come into force on <sup>Idem</sup> the 1st day of April, 1974.
6. This Act may be cited as *The Territorial Division Amend- Short title  
ment Act, 1974.*







An Act to amend  
The Territorial Division Act

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*1st Reading*

March 14th, 1974

*2nd Reading*

May 7th, 1974

*3rd Reading*

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THE HON. J. WHITE  
Treasurer of Ontario and Minister of  
Economics and Intergovernmental  
Affairs

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(Reprinted as amended by  
the Committee of the Whole House)

# **BILL 14**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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## **An Act to amend The Territorial Division Act**

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THE HON. J. WHITE  
Treasurer of Ontario and Minister of Economics  
and Intergovernmental Affairs

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BILL 14

1974

## An Act to amend The Territorial Division Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 5 of section 1 of *The Territorial Division Act*, s. 1, par. 5, being chapter 458 of the Revised Statutes of Ontario, 1970, re-enacted is repealed and the following substituted therefor:

### 5.—THE REGIONAL MUNICIPALITY OF DURHAM Durham

consists of the municipalities from time to time included within the Regional Area as defined in *The Regional Municipality of Durham Act, 1973*. 1973, c. 78

- (2) Paragraph 12 of the said section 1 is repealed and the following substituted therefor: s. 1, par. 12, re-enacted

### 12.—THE REGIONAL MUNICIPALITY OF Haldimand-Norfolk HALDIMAND-NORFOLK

consists of the municipalities from time to time included within the Regional Area as defined in *The Regional Municipality of Haldimand-Norfolk Act, 1973*. 1973, c. 96

- (3) Paragraph 13 of the said section 1 is repealed and the following substituted therefor: s. 1, par. 13, re-enacted

### 13.—THE REGIONAL MUNICIPALITY OF HALTON Halton

consists of the municipalities from time to time included within the Regional Area as defined in *The Regional Municipality of Halton Act, 1973*. 1973, c. 70

- (4) The said section 1 is amended by adding thereto the following paragraph: s. 1, amended



Hamilton-  
Wentworth13A.—THE REGIONAL MUNICIPALITY OF  
HAMILTON-WENTWORTH

1973, c. 74

consists of the municipalities from time to time included in the Regional Area as defined in *The Regional Municipality of Hamilton-Wentworth Act, 1973*.

s. 1,  
par. 18 (d),  
re-enacted

- (5) Clause *d* of paragraph 18 of the said section 1 is repealed and the following substituted therefor:

(d) the townships of,

Bathurst,	Montague,
Beckwith,	North Burgess,
Darling,	North Elmsley,
Drummond,	Pakenham,
Lanark,	Ramsay,
Lavant, Dalhousie	South Sherbrooke.
and North	
Sherbrooke,	

s. 1,  
par. 23,  
repealed

- (6) Paragraph 23 of the said section 1 is repealed.

s. 1,  
par. 24 (a),  
amended

- (7) Clause *a* of paragraph 24 of the said section 1 is amended by adding at the end thereof "Port Hope".

s. 1,  
par. 24 (c),  
amended

- (8) Clause *c* of paragraph 24 of the said section 1 is amended by inserting after "Hamilton" in the first column "Hope" and by striking out "South Monaghan" in the second column.

s. 1,  
par. 25,  
repealed

- (9) Paragraph 25 of the said section 1 is repealed.

s. 1,  
par. 28,  
re-enacted

- (10) Paragraph 28 of the said section 1 is repealed and the following substituted therefor:

## Peel

## 28.—THE REGIONAL MUNICIPALITY OF PEEL

1973, c. 60

consists of the municipalities from time to time included within the Regional Area as defined in *The Regional Municipality of Peel Act, 1973*.

s. 1,  
par. 30 (b),  
amended

- (11) Clause *b* of paragraph 30 of the said section 1 is amended by inserting after "Lakefield" in the first line "Millbrook".

s. 1,  
par. 30 (c),  
amended

- (12) Clause *c* of paragraph 30 of the said section 1 is amended by inserting after "Burleigh and Anstruther" in the first column "Cavan" and by inserting after "Smith" in the second column "South Monaghan".

s. 1,  
par. 35 (b),  
amended

- (13) Clause *b* of paragraph 35 of the said section 1 is amended by adding at the end thereof "Wasaga Beach".

- (14) Clause *c* of paragraph 35 of the said section 1 is amended by striking out "Wasaga Beach" in the third line. s. 1,  
par. 35 (c),  
amended

- (15) Clause *d* of paragraph 35 of the said section 1 is amended by inserting after "Innisfil" in the first column "Mara" and by inserting after "Oro" in the second column "Rama". s. 1,  
par. 35 (d),  
amended

- (16) Clause *c* of paragraph 38 of the said section 1 is amended by inserting after "Laxton, Digby and Longford" in the second column "Manvers". s. 1,  
par. 38 (c),  
amended

- (17) Paragraph 39 of the said section 1 is repealed and the following substituted therefor: s. 1,  
par. 39,  
re-enacted

### 39.—THE REGIONAL MUNICIPALITY OF WATERLOO Waterloo

consists of the municipalities from time to time included within the Regional Area as defined in *The Regional Municipality of Waterloo Act, 1972*. 1972, c. 105

- (18) Paragraph 41 of the said section 1 is repealed. s. 1,  
par. 41,  
repealed

- (19) Paragraph 45 of the said section 1 is amended by re-lettering clause *a* as clause *aa* and by adding thereto the following clause: s. 1,  
par. 45,  
amended

(a) the City of Timmins.

- (20) Clause *aa* of paragraph 45 of the said section 1, as relettered by subsection 19, is amended by striking out "Timmins" in the second line. s. 1,  
par. 45 (aa),  
amended

- (21) Clause *b* of paragraph 45 of the said section 1 is amended by inserting after, s. 1,  
par. 45 (b),  
amended

(a) "Adair" in the first column "Adams";

(b) "Belford" in the first column "Ben Nevis";

(c) "Beniah" in the first column "Benoit";

(d) "Birdsall" in the first column "Bisley, Black, Blackstock";

(e) "Eilber" in the first column "Eldorado";

(f) "Pliny" in the first column "Pontiac";

(g) "Poulett" in the first column "Price";

- (h) "Jessop" in the second column "Keefer";
- (i) "Clergue" in the third column "Clifford";
- (j) "Dempsey" in the third column "Denton";
- (k) "Langemarck" in the third column "Langmuir";
- (l) "McCuaig" in the third column "McEvay";
- (m) "McQuibban" in the third column "Melba";
- (n) "Thorning" in the third column "Thornloe,  
Timmins"; and
- (o) "Tolmie" in the third column "Tolstoi".

s. 1,  
par. 45,  
amended

- (22) The description immediately following clause *b* of paragraph 45 of the said section 1 is amended by striking out "Dokis" in the sixteenth line and inserting in lieu thereof "Pontiac", by striking out "Whitesides" in the seventeenth line and inserting in lieu thereof "Keefer" and by striking out "Township of Whitesides to the northwest corner thereof" in the eighteenth and nineteenth lines and inserting in lieu thereof "townships of Keefer and Whitesides to the northwest corner of the Township of Whitesides".

s. 1,  
par. 49 (c),  
amended

- (23) Clause *c* of paragraph 49 of the said section 1 is amended by inserting after "Field" in the third column "Finlayson (part)".

s. 1,  
par. 49,  
amended

- (24) The description immediately following clause *c* of paragraph 49 of the said section 1 is amended by striking out "southwesterly corner of the last-mentioned township; thence northerly along the westerly boundary of the Township of Finlayson to the northwesterly corner thereof; thence easterly along the northerly boundary of the Township of Finlayson in the Territorial District of Nipissing" in the sixty-first, sixty-second, sixty-third, sixty-fourth and sixty-fifth lines and inserting in lieu thereof "easterly limit of the Township of Lake of Bays; thence northerly along the easterly boundary of the Township of Lake of Bays to the north-easterly corner thereof; thence westerly along the northerly boundary of the Township of Lake of Bays in the Territorial District of Muskoka".

s. 1,  
par. 52 (a, b),  
re-enacted

- (25) Clauses *a* and *b* of paragraph 52 of the said section 1 are repealed and the following substituted therefor:

- (a) The Regional Municipality of Sudbury composed of the municipalities from time to time included



within the Regional Area as defined in *The Regional Municipality of Sudbury Act, 1972*; 1972, c. 104

(b) the towns of Espanola, Massey, Webbwood.

(26) Clause *a* of paragraph 54 of the said section 1 is amended by inserting after "Haileybury" in the first line "Kirkland Lake". s. 1,  
par. 54 (a),  
amended

(27) Clause *c* of paragraph 54 of the said section 1 is amended by striking out "Adams", "Ben Nevis", "Benoit", "Eldorado", "Keefer" and "Langmuir" in the first column, by striking out "Bisley", "Black", "Blackstock", "McEvay" and "Melba" in the second column and by striking out "Clifford", "Denton", "Pontiac", "Price", "Thorneloe", "Timmins" and "Tolstoi" in the third column. s. 1,  
par. 54 (c),  
amended

(28) The description immediately following clause *c* of paragraph 54 of the said section 1 is amended by striking out "Pharand, Hillary and Keefer" in the twenty-second line and inserting in lieu thereof "Pharand and Hillary" and by striking out "north" in the twenty-fourth line and inserting in lieu thereof "south". s. 1,  
par. 54,  
amended

2. (1) Clause *a* of paragraph 1 of section 2 of the said Act is repealed and the following substituted therefor: s. 2,  
par. 1 (a),  
re-enacted

(a) the improvement districts of the North Shore and White River.

(2) Clause *b* of paragraph 1 of the said section 2 is amended by striking out "Macdonald and Meredith" in the second column and inserting in lieu thereof "Macdonald, Meredith and Aberdeen Additional". s. 2,  
par. 1 (b),  
amended

(3) Clause *a* of paragraph 2 of the said section 2 is repealed. s. 2,  
par. 2 (a),  
repealed

(4) Clause *b* of paragraph 2 of the said section 2 is repealed and the following substituted therefor: s. 2,  
par. 2 (b),  
re-enacted

(b) the townships of,

Black River-Matheson,	Kendrey,
Fauquier,	Owens, Williamson and
Glackmeyer,	Idington,
	Shackleton and Machin.

(5) Clause *a* of paragraph 3 of the said section 2 is amended by striking out "Ear Falls" in the first and second lines. s. 2,  
par. 3 (a),  
amended

s. 2,  
par. 3 (b),  
re-enacted

- (6) Clause *b* of paragraph 3 of the said section 2 repealed and the following substituted therefor:

(b) the townships of,

Ear Falls,	Machin,
Ignace,	Red Lake.
Jaffray and Melick,	

s. 2,  
par. 8 (a),  
repealed

- (7) Clause *a* of paragraph 8 of the said section 2 repealed.

s. 2,  
par. 8 (b),  
re-enacted

- (8) Clause *b* of paragraph 8 of the said section 2 repealed and the following substituted therefor:

(b) the townships of,

Baldwin,	Cosby, Mason and	Nairn,
Casimir, Jennings	Martland,	Ratter and Dunnet,
and Appleby,	Hagar,	Salter, May and
Chapleau,	Hallam,	Harrow.

s. 2,  
par. 10 (a),  
re-enacted

- (9) Clause *a* of paragraph 10 of the said section 2 repealed and the following substituted therefor:

(a) the Improvement District of Gauthier.

s. 2,  
par. 10 (b),  
amended

- (10) Clause *b* of paragraph 10 of the said section 2 amended by striking out "Teck" in the third column.

s. 4 (1),  
par. 3,  
repealed

3. Paragraph 3 of subsection 1 of section 4 of the said Act repealed.

s. 8 (2),  
re-enacted

4. Subsection 2 of section 8 of the said Act is repealed and the following substituted therefor:

Exception

(2) Subsection 1 does not apply to that part of Ontario at the head of Lake Ontario lying west of the east boundary of The Municipality of Metropolitan Toronto, but in that part the limits of all townships on either side of the Lake extend to the following described line:

Commencing at a point where the east boundary of The Municipality of Metropolitan Toronto meets the International Boundary; thence westerly along the line of the International Boundary to the point of its angle southerly thence westerly in a straight line to and along the centre line of the Burlington Canal to its point of entry into Hamilton Harbour.



- 5.—(1) This Act, except subsections 1 to 20, and 23 to 26 <sup>Commence-  
ment</sup> of section 1, subsection 1 and subsections 3 to 10 of section 2 and section 3, comes into force on the day it receives Royal Assent.
- (2) Subsections 23 and 24 of section 1 shall be deemed to <sup>Idem</sup> have come into force on the 1st day of January, 1971.
- (3) Subsection 26 of section 1 and subsection 10 of section <sup>Idem</sup> 2 shall be deemed to have come into force on the 1st day of January, 1972.
- (4) Subsections 17, 19, 20 and 25 of section 1 and sub-<sup>Idem</sup> sections 3 to 9 of section 2 shall be deemed to have come into force on the 1st day of January, 1973.
- (5) Subsection 1 of section 2 shall be deemed to have come <sup>Idem</sup> into force on the 1st day of March, 1973.
- (6) Subsections 1, 3, 4, 5, 7 to 16 and 18 of section 1 and <sup>Idem</sup> section 3 shall be deemed to have come into force on the 1st day of January, 1974.
- (7) Subsections 2 and 6 of section 1 come into force on <sup>Idem</sup> the 1st day of April, 1974.
6. This Act may be cited as *The Territorial Division Amend-<sup>Short title</sup>  
ment Act, 1974.*





An Act to amend  
The Territorial Division Act

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*1st Reading*

March 14th, 1974

*2nd Reading*

May 7th, 1974

*3rd Reading*

May 7th, 1974

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THE HON. J. WHITE  
Treasurer of Ontario and Minister of  
Economics and Intergovernmental  
Affairs

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO**  
**23 ELIZABETH II, 1974**

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**An Act respecting the Rights of Labour**

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**MR. DREA**

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#### EXPLANATORY NOTE

The purpose of the Bill is to establish a set of safeguards to protect individual members of trade unions.

BILL 15

1974

## An Act respecting the Rights of Labour

**W**HEREAS it is in the public interest of the Province of Ontario to provide for the disclosure of financial transactions and administrative practices of trade unions and employers or employers' organizations; to prevent abuses in the administration of trusteeships by trade unions and to provide for standards with respect to officers of trade unions; Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### PART I

#### INTERPRETATION

#### 1.—(1) In this Act,

Inter-  
pre-  
ta-  
tion

(a) "associate" where used to indicate a relationship with any person means,

(i) any spouse, son or daughter of that person,  
or

(ii) any relative of such person or of his spouse other than a relative referred to in sub-clause i, who has the same home as such person;

(b) "collective agreement" means an agreement in writing between an employer or an employers' organization, on the one hand, and a trade union that, or a council of trade unions that, represents employees of the employer or employees of members of the employers' organization, on the other hand, containing provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, the employers' organization, the trade union or the employees;

- (c) "employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees and includes an accredited employers' organization;
- (d) "local" means a subdivision of a trade union;
- (e) "member", when used with reference to a trade union, includes a person who,
  - (i) has applied for membership in the trade union, and
  - (ii) has paid to the trade union on his own behalf an amount of at least \$1 in respect of initiation fees or monthly dues of the trade union,
 and "membership" has a corresponding meaning;
- (f) "Minister" means the Minister of Labour;
- (g) "officer" means any person authorized by the constitution of a trade union to perform the functions of president, vice-president, secretary, treasurer, or other executive functions of a labour organization, and any member of its executive board or similar governing body;
- (h) "security" has the same meaning as in *The Securities Act*;
- (i) "trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers and includes a provincial, national or international trade union and a certified council of trade unions.

R.S.O. 1970,  
c. 426

## PART II

### RIGHTS OF MEMBERS

Rights  
of  
members

**2.** Every member of a trade union shall have the same rights and privileges to nominate candidates, to vote in elections or referendums of the trade union, to receive notice of and to attend meetings of members and to participate in the deliberations and vote upon the business of such meetings as any other member subject to reasonable rules and regulations in the constitution and by-laws of the trade union.

**3.** The schedule of dues and initiation fees payable by members of a trade union in effect on the day that this Act comes into force shall not be increased, and no general or special assessment shall be levied, except, <sup>Dues and initiation fees</sup>

- (a) by majority vote by secret ballot of the members in good standing at a meeting duly called, constituted and held for that purpose; or
- (b) by majority vote of the members in good standing voting in a membership referendum conducted by secret ballot.

**4.—(1)** No trade union shall limit the right of any member to institute an action in any court or in a proceeding before any administrative board, agency or tribunal notwithstanding that the trade union or any officer thereof are named as defendants or respondents in such action or proceeding. <sup>Prohibitions</sup>

(2) No trade union shall limit the right of any member to appear as a witness in any judicial, administrative or legislative proceeding or to petition any legislature or a member thereof. <sup>Idem</sup>

(3) For the purposes of subsections 1 and 2 any member may be required by the constitution and by-laws of a trade union to exhaust reasonable hearing procedures (but not to exceed a period of one month in time) within such trade union before instituting legal or administrative proceeding against such trade union or any officer thereof. <sup>Idem</sup>

(4) For the purposes of subsection 1 and 2 no employer or employee organization shall directly or indirectly finance or otherwise encourage, or participate in any such action or proceeding except as a party thereto. <sup>Idem</sup>

**5.—(1)** No disciplinary action of any kind may be taken against any member of a trade union without a full and fair hearing except for non-payment of dues unless such member, <sup>Hearing</sup>

- (a) has received reasonable notice of a hearing, stating the time, place and purpose of the hearing;
- (b) has been furnished prior to the hearing reasonable information of any allegations.



Idem (2) For the purposes of a hearing required by subsection 1 a member may,

- (a) be represented by counsel or an agent;
- (b) call and examine witnesses and present his arguments and submissions;
- (c) conduct cross-examinations of witnesses.

Idem (3) A hearing shall be open to the public.

Conflict **6.** Notwithstanding section 8, where there is a conflict with any provision of the constitution or by-laws of any trade union and this Act, the provisions of this Act prevail.

County court **7.** Any person whose rights under this Act are infringed by any violation of this Act may bring an action in the county court.

No limitation of existing rights **8.** Nothing contained in this Act shall limit the rights of any member of a trade union under any statute of the Parliament of Canada or the Province of Ontario or before any court or tribunal, or under the constitution and by-laws of any trade union.

Responsibility of trade union **9.** It shall be the responsibility of every trade union to advise members of their rights under this Act.

## PART III

### DISCLOSURE AND REPORTING

Constitution and by-laws **10.**—(1) Every trade union and every local of a trade union shall adopt a constitution and by-laws and shall file a copy thereof with the Minister, together with a report, signed by its president and secretary or corresponding officers, containing the following information,

- (a) the name of the trade union, its mailing address, the address of its principal office;
- (b) name and title of each officer;
- (c) a complete schedule of all fees and dues, and other periodic payments;
- (d) a detailed statement of provision for and procedures followed with respect to,



- (i) qualifications for and restrictions on membership,
- (ii) levying of assessments,
- (iii) participation in insurance or other benefit plans,
- (iv) authorization for disbursement of the trade union,
- (v) audits,
- (vi) calling and convening special and general meetings of members,
- (vii) election of officers and any other representatives,
- (viii) discipline or removal of officers or other representatives for breach of trust,
- (ix) disciplinary measures with respect to members including provision for notice, hearings and appeals,
- (x) authorization for bargaining demands,
- (xi) ratification of contracts,
- (xii) authorization for strikes and work stoppages,
- (xiii) issuance of work permits.

(2) Every trade union and every local of any trade union shall report any change in the information required by subsection 1 to the Minister within sixty days of the date such change occurred. Idem

**11.**—(1) Every trade union and every local of any trade union shall file annually with the Minister a financial report signed by its president and treasurer or corresponding municipal officers containing the following information in such detail as in the opinion of the Minister as may be necessary to disclose its financial condition and operations for its preceding fiscal year, Financial report

(a) assets and liabilities at the beginning and end of the fiscal year;

(b) receipts of any kind and the sources thereof;

- (c) salary, allowances and other direct or indirect disbursements (including reimbursed expenses) to each officer and also to each employee who, during such fiscal year, received more than \$1,000 in the aggregate from such trade union and any other trade union or local thereof with which it is affiliated or which is affiliated with the same national or international labour organization;
- (d) direct or indirect loans made to any officer, employee or member together with a statement of the purpose, security, if any, and arrangement for repayment;
- (e) direct or indirect loans to any business enterprise, together with a statement of the purpose, security, if any, and arrangements for repayment;
- (f) other disbursements made by it including the purposes thereof,

in such form as the Minister may prescribe.

Idem

(2) Every trade union required to submit a report under this section shall make available the information required to be contained therein to all of its members and every trade union or local thereof shall permit any member to examine any books, records and accounts necessary to verify such report.

## PART IV

### INSIDER REPORTING

Report to  
Minister

**12.—(1)** Every officer or employee of a trade union (other than an employee performing exclusively clerical services) and every associate of such person shall file with the Minister a signed report listing and describing for the preceding fiscal year,

- (a) any security which such officer, employee or associate directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) derived directly or indirectly from an employer or employers' organization whose employees such trade union represents or is seeking to represent, except payments and other benefits received as a *bona fide* employee of such employer;

- (b) any transaction in which such officer, employer or associate engaged, directly or indirectly, involving any security or loan to or from, or other interest in the business of an employer or employers' organization whose employees such trade union represents or is seeking to represent;
- (c) any security or other interest which such officer, employee or associate directly or indirectly held in, and any income or other benefit with monetary value (including reimbursed expenses) derived from, any business a substantial part of which consists of buying from, selling or leasing to, or otherwise dealing with, the business of an employer or employers' organization whose employees such trade union represents or is seeking to represent;
- (d) any security or other interest which such officer, employee or associate held in, and any income or other benefit with monetary value (including reimbursed expenses) derived from a business any part of which consists of buying from, or selling or leasing, directly or indirectly, to otherwise dealing with such trade union;
- (e) any direct or indirect business transaction or arrangement between an officer employee or associate and any employer or employers' organization whose employees his organization represents or is seeking to represent except work performed and payments and benefits received as a *bona fide* employee of such employer or employers' organization and except purchases and sales of goods or services in the regular course of business at prices available to any employees of such employer or employers' organization.

13. Every employer or employers' organization who in any fiscal year made,

Report re  
loans,  
payments,  
etc.

- (a) any payment or loan, direct or indirect, of money or other thing of value (including reimbursed expenses), or any promise or agreement therefor, to any trade union or to any officer or other representative or employee of a trade union or to any person associated with any officer, representative or employee of a trade union except payments or loans made by a bank to which *The Bank Act* (Canada) applies or a loan corporation or trust company registered under *The Loan and*

R.S.C. 1970,  
c. B-1  
R.S.O. 1970,  
cc. 254, 224



*Trust Corporations Act*, or an insurance company licensed under *The Insurance Act*;

- (b) any payment (including reimbursed expenses) to any employee, or any group or committee of such employees, for the purpose of causing such employees to exercise or not to exercise or as the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing;
- (c) any expenditure where an object thereof directly or indirectly is to interfere with, restrain or coerce employees in the exercise of the right to organize and bargain collectively through representatives of their own choosing or is to obtain information concerning the activities of employees or a trade union in connection with a labour dispute involving such employer or employers' organization except for use in conjunction with an administrative or judicial proceeding;
- (d) any agreement or arrangement with a labour relations consultant or other independent contractor or organization pursuant to which such person undertakes activities the object of which, directly or indirectly, is to persuade employees to exercise or not to exercise or as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing, or undertakes to supply information concerning the activities of employees or a trade union in connection with a labour dispute involving such employer except for use in conjunction with an administrative or judicial proceeding,

shall file with the Minister, a report signed by its president and treasurer or corresponding principal officers showing in detail the date and amount of each such payment, loan, promise, agreement or arrangement and the name, address, and position, if any, in any firm or trade union of the person to whom it was made and a full explanation of the circumstances of all such payments, including the terms of any agreements or understanding pursuant to which they were made.

Report re  
agreements  
or arrange-  
ments

**14.** Every person who pursuant to any agreement or arrangement with an employer or employers' organization undertakes activities the object of which, directly or indirectly, is,

- (a) to persuade employees to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing; or
- (b) to supply an employer or employers' organization with information concerning the activities of employees or a trade union in connection with a labour dispute involving such employer, except information for use in conjunction with an administrative or judicial proceeding,

shall file, within thirty days after entering into such agreement or arrangement, a report with the Minister containing a detailed statement of the terms and conditions of such agreement or arrangement.

**15.—**(1) Nothing contained in section 13 or section 14 shall be construed to require any employer or employers' organization to file a report covering the services of such person by reason of his giving or agreeing to give advice to such employer or representing or agreeing to represent such employer before any court, administrative agency or tribunal or engaging or agreeing to engage in collective bargaining on behalf of such employer with respect to wages, hours, or other terms or conditions of employment or the negotiation of an agreement or any question arising thereunder. Where  
report  
not  
required

(2) Nothing contained in section 13 or section 14 shall be construed to require any regular officer, supervisor, or employee of an employer to file a report in connection with services rendered to such employer nor shall any employer be required to file a report covering expenditures made to any regular officer, supervisor or employee as compensation for service as a regular officer, supervisor or employee of such employer. Idem

**16.—**(1) Every person who, knowingly, Offences

- (a) furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act;
- (b) fails to comply with any order, direction or other requirement made under this Act; or
- (c) contravenes any provision of this Act,



and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

**Corporations** (2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

**Commence-  
ment** **17.** This Act comes into force on the day it receives Royal Assent.

**Short title** **18.** This Act may be cited as *The Rights of Labour Act, 1974*.







An Act respecting  
the Rights of Labour

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*1st Reading*

March 15th, 1974

*2nd Reading*

*3rd Reading*

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MR. DREA

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*(Private Member's Bill)*

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act to provide for the Establishment  
of Safety Committees**

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**MR. HAGGERTY**

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**EXPLANATORY NOTE**

Self-explanatory.

BILL 16

1974

## An Act to provide for the Establishment of Safety Committees

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, "Minister" means the Minister of Labour. Interpretation
2. Every industry shall establish a safety committee which shall have equal representation from both the employers and employees in the industry. Safety committee established
3. Every safety committee, upon the request of the Minister, shall advise him respecting the safety of workers in the industry which it represents and, without restricting the generality of the foregoing, inquire into and advise him upon any laws respecting the safety of workers in the industry with a view to the improvement, clarification or extension of the existing laws or the enactment of new laws or inquire into and advise him upon any matter designed to co-ordinate the functions of all bodies concerned with the safety of workers. Duties of safety committee
4. Where an accident or injury occurs on a job site, the foreman or person in charge of the job site shall forthwith notify the safety committee representing the particular industry that an accident or injury has occurred. Notification where accident or injury
5. Where a safety committee receives a report concerning an accident or injury on a job site, the committee shall report in writing to the Minister that an accident or injury has occurred and outline any recommendations it may have as to the future prevention of a similar accident or injury. Idem
6. This Act comes into force on the day it receives Royal Assent. Commencement
7. This Act may be cited as *The Safety Committees Act*. Short title

1974.

Establishment of Safety Committees

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*1st Reading*

March 15th, 1974

*2nd Reading*

*3rd Reading*

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MR. HAGGERTY

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*(Private Member's Bill)*

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act to relieve Persons from  
Liability in respect of Voluntary  
Emergency Medical and First Aid Services**

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**MR. HAGGERTY**

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#### EXPLANATORY NOTE

The purpose of this Bill is to relieve persons from liability in respect of voluntary emergency first aid assistance or medical services rendered at or near the scene of an accident or other sudden emergency.

**BILL 17** **1974**

**An Act to relieve Persons from  
Liability in respect of Voluntary  
Emergency Medical and First Aid Services.**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. In this Act,**

**Interpre-  
tation**

(a) "physician" means a legally qualified medical practitioner;

(b) "registered nurse" means a person who is registered as a nurse under *The Nurses Act*.

**R.S.O. 1970,  
c. 301**

**2. Where, in respect of a person who is ill, injured or unconscious as the result of an accident or other sudden emergency,**

**Relief from  
liability for  
damages**

(a) a physician or registered nurse voluntarily and without expectation of compensation or reward renders emergency medical services or first aid assistance and such services or assistance are not rendered at a hospital or other place having adequate medical facilities and equipment; or

(b) a person other than a person mentioned in clause (a) voluntarily renders emergency first aid assistance and such assistance is rendered at the immediate scene of the accident or emergency,

the physician, registered nurse or other person shall not be liable for damages for injuries to or the death of such person alleged to have been caused by an act or omission on his part in rendering the medical services or first aid assistance, unless such acts constitute wilful or wanton misconduct on his part.

**3. Nothing in section 2 shall be deemed to relieve a physician from liability for damages for injuries to or the death of any**

**Act does  
not apply  
to normal  
medical  
services**

person caused by an act or omission on the part of the physician in respect of medical services rendered by him in the normal and ordinary course of his practice and not under the circumstances set forth in section 2.

Commence-  
ment

**4.** This Act comes into force on the day it receives Royal Assent.

Short title

**5.** This Act may be cited as *The Good Samaritan Act, 1974*.









An Act to relieve Persons from Liability in  
respect of Voluntary Emergency Medical  
and First Aid Services

---

*1st Reading*

March 15th, 1974

*2nd Reading*

*3rd Reading*

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MR. HAGGERTY

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*(Private Member's Bill)*

4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act to amend The Beds of Navigable Waters Act**

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**MR. HAGGERTY**

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#### EXPLANATORY NOTE

The purpose of this Bill is to provide a uniform interpretation of deeds of property bounded by navigable water so that the high water mark shall be deemed to be the boundary of such property.

## An Act to amend The Beds of Navigable Waters Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows

1. (1) *The Beds of Navigable Waters Act*, being chapter 41 of the <sup>Act, amended</sup> Revised Statutes of Ontario, 1970, is amended by renumbering section 1 as section 1*a* and by adding thereto the following section:

1. In this Act,

Interpre-  
tation

(a) "bed" used in relation to a navigable body of water shall include all land and land under water lying below the high water mark; and

(b) "high water mark" shall mean the level at which the water in a navigable body of water has been held for a period sufficient to leave a watermark along the bank of such navigable body of water.

- (2) Section 1*a* of the said Act, as renumbered by subsection 1. <sup>a. 1*a*, amended</sup> is amended by adding thereto the following subsections:

(2) Where in any patent, conveyance or deed from the Crown made either heretofore or hereafter, the boundary of any land is described as a navigable body of water or the edge, bank, beach, shore, shoreline or high water mark thereof or in any other manner with relation thereto, such boundary shall be deemed always to have been the high water mark of such navigable body of water. <sup>Where boundary body of navigable water</sup>

(3) The Minister of Natural Resources may, upon the recommendation of the Surveyor General, fix the high water mark of any navigable body of water or any part thereof, and his decision shall be final and conclusive. <sup>Minister may fix high water mark</sup>



s. 2,  
amended

**2.** Section 2 of the said Act is amended by striking out "Section in the first line and inserting in lieu thereof "Section 1a".

Commence-  
ment

**3.** This Act comes into force on the day it receives Royal Assent.

Short title

**4.** This Act may be cited as *The Beds of Navigable Water Amendment Act, 1974*.







An Act to amend  
The Beds of Navigable Waters Act

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*1st Reading*

March 25th, 1974

*2nd Reading*

*3rd Reading*

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MR. HAGGERTY

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*(Private Member's Bill)*



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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act to establish The Ontario Bill of Rights**

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**MR. ROY**

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#### EXPLANATORY NOTES

This Bill will provide for an Ontario Bill of Rights. The Canadian Bill of Rights enacted by the Parliament of Canada in 1960 provides for the protection of certain human rights and fundamental freedoms but its effectiveness is limited by the fact that it operates only within the fields of the federal Parliament's constitutional authority. The Ontario Bill of Rights is intended to provide for the protection of those same human rights and fundamental freedoms so that, in Ontario, those rights and freedoms will have protection in both provincial and federal fields of legislative jurisdiction. The result will be to have those rights and freedoms protected in Ontario under a single legislative shield consisting of the Canadian Bill of Rights and The Ontario Bill of Rights.

The effect of the Bill will be to have the Legislature, out of its respect for those rights and freedoms, limit its powers to enact statutes and regulations.

BILL 19

1974

## An Act to establish The Ontario Bill of Rights

**W**HEREAS the free and democratic society existing in Ontario is founded upon principles, fostered by tradition, that honour and respect human rights and fundamental freedoms and the dignity and worth of the human person; and whereas the Parliament of Canada, being desirous of enshrining certain principles and the human rights and fundamental freedoms derived from them, enacted the Canadian Bill of Rights in order to ensure the protection of those rights and freedoms in Canada in matters coming within its legislative authority; and whereas the Legislature of Ontario, affirming those principles and recognizing the need to ensure the protection of those rights and freedoms in Ontario in matters coming within its legislative authority, desires to enact The Ontario Bill of Rights.

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. It is hereby recognized and declared that in Ontario there exist, without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely,

Declaration  
of rights and  
fundamental  
freedoms

- (a) the right of the individual to liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law;
- (b) the right of the individual to equality before the law and the protection of the law;
- (c) freedom of religion;
- (d) freedom of speech;
- (e) freedom of assembly and association; and

## (f) freedom of the press.

Construction  
and applica-  
tion of  
statutes and  
regulations

**2.** Every statute and regulation of Ontario shall, unless it is expressly declared by an Act of the Legislature that it operates notwithstanding this Act, be so construed and applied as not to abrogate, abridge or infringe or to authorize the abrogation, abridgment or infringement of any of the rights or freedoms herein recognized and declared.

Rights  
preserved

**3.—(1)** Nothing in this Act shall be construed to abrogate or abridge any human right or fundamental freedom not enumerated herein that may have existed in Ontario at the commencement of this Act.

Jurisdiction  
of  
Legislature

**(2)** The provisions of this Act shall be construed as extending only to matters coming within the legislative authority of the Legislature of Ontario.

Notice to  
Attorney  
General

**4.—(1)** Where in any action or other proceeding a question arises as to whether any law of Ontario abrogates, abridges or infringes, or authorizes the abrogation, abridgment or infringement, of any of the rights and freedoms herein recognized and declared, no adjudication on that question is valid unless notice has been given to the Attorney General.

Attorney  
General  
may appear

**(2)** Where the Attorney General has notice under subsection 1, he may, in person or by counsel, appear and participate in that action or proceeding on such terms and conditions as the court, person or body conducting the proceeding may consider just.

Law of  
Ontario  
defined

**5.** In this Act, "law of Ontario" means,

- (a) any Act of the Legislature of Ontario enacted before, on or after the commencement of this Act; and
- (b) any order, rule or regulation made or approved by the Lieutenant Governor in Council or by a Minister of the Crown before, on or after the commencement of this Act.

Commence-  
ment

**6.** This Act comes into force on the day it receives Royal Assent.

Short title

**7.** This Act may be cited as *The Ontario Bill of Rights, 1974*.









The Ontario Bill of Rights

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*1st Reading*

March 26th, 1974

*2nd Reading*

*3rd Reading*

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MR. ROY

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*(Private Member's Bill)*

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act to amend  
The Farm Products Grades and Sales Act**

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**THE HON. W. A. STEWART  
Minister of Agriculture and Food**

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AN ACT TO AMEND THE  
ACT OF 1900

SECTION 1. The Act of 1900  
is amended to read as follows:

EXPLANATORY NOTES

SECTIONS 1 AND 2. Complementary to section 3 of the Bill.



ILL 20

1974

## An Act to amend The Farm Products Grades and Sales Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Farm Products Grades and Sales Act*, being <sup>s. 1.</sup> chapter 161 of the Revised Statutes of Ontario, 1970, as re-enacted amended by the Statutes of Ontario, 1972, chapter 37, section 1, is repealed and the following substituted therefor:

1. In this Act,

Interpre-  
tation

- (a) "Arbitration Board" means the Produce Arbitration Board established under this Act;
- (b) "Board" means the Produce Licence Review Board established under this Act;
- (c) "contracting party" means,
  - (i) a producer of farm products who has entered into a contract with a licensee, or
  - (ii) a licensee who has entered into a contract with a producer of farm products,

respecting the marketing of any farm product;

- (d) "controlled-atmosphere fruit" means fruit that has been stored in a sealed compartment of a controlled-atmosphere storage plant for a period of at least ninety days from the date of the sealing thereof where the oxygen content of the air in the sealed compartment did not exceed 5 per cent during the storage;
- (e) "controlled-atmosphere storage plant" means premises and buildings constructed and equipped

for cold storage of fruit in sealed compartment within which the oxygen content of the air mechanically controlled;

- (f) "dealer" means a person who purchases or accepts for sale a farm product from the producer thereof other than a person who purchases a farm product for his own consumption;
- (g) "Director" means the Director of the Farm Product Inspection Branch of the Ministry of Agriculture and Food;
- (h) "farm product" means such animals, animal products, Christmas trees, fruit, fruit products, grains, honey, maple products, seeds, tobacco, vegetables, vegetable products, wood or any class thereof and articles of food or drink manufactured or derived whole or in part from any of those products as are designated in the regulations;
- (i) "grade" means, except in subsection 4 of section 2, a grade established under this Act;
- (j) "grader" means a grader appointed under this Act;
- (k) "inspector" means an inspector appointed under this Act;
- (l) "licence" means a licence issued under this Act and "licensee" has a corresponding meaning;
- (m) "marker" means a marker issued under this Act;
- (n) "Minister" means the Minister of Agriculture and Food;
- (o) "motor vehicle" means a motor vehicle as defined in *The Highway Traffic Act*;
- (p) "package" includes any box, crate or other receptacle used for or suitable for use in the marketing, transporting or shipping of a farm product;
- (q) "regulations" means the regulations made under this Act.

R.S.O. 1970,  
c. 202

s. 2 (1) (m-p),  
re-enacted

2. Clauses *m*, *n*, *o* and *p* of subsection 1 of section 2 of the said Act are repealed and the following substituted therefor:



SECTION 3. At present, licensing under the Act of various persons engaged in dealing in farm products is provided for in the regulations. The Bill revokes the power to make regulations respecting most of the licensing procedures (section 2) and incorporates such procedures in substantive provisions of the Act (new sections 9c to 9g).

Provision is made for a Produce Licence Review Board to which appeals can be made from decisions of the Director. Provision is also made for a further appeal from the Board to the courts (new sections 9h, 9i, 9j and 9k).

The Bill also provides for the establishment of the Produce Arbitration Board to arbitrate disputes arising out of contracts entered into in respect of the marketing of farm products. Provision is made for an appeal to the courts from an award of the Board (new sections 9l, 9m and 9n).



- (m) providing for the manner of issuing licences and prescribing their duration and the fees payable therefor;
- (n) prescribing the terms and conditions on which licences are issued;
- (o) prescribing grounds for refusal to renew, suspension or revocation of licences in addition to the grounds mentioned in section 9b or 9d;
- (p) providing for the issuing of markers for motor vehicles owned or leased by persons licensed as dealers and prescribing the fees payable therefor;
- (pa) prohibiting any person licensed as a dealer from transporting any farm product in a motor vehicle upon a highway in Ontario unless a marker has been issued respecting the vehicle and requiring any markers to be displayed in such manner as may be prescribed;
- (pb) requiring removal of any marker issued to a person whose licence as a dealer has been suspended or revoked;
- (pc) prescribing the form of and conditions in the bill of lading to be used in transporting or shipping a farm product in respect of which a bill of lading is not required under *The Public Commercial Vehicles Act*; R.S.O. 1970.  
c. 375
- (pd) prescribing records to be kept by dealers;
- (pe) prescribing forms and providing for their use.

3. The said Act is amended by adding thereto the following ss. 9a-9n.  
enacted sections:

9a.—(1) No person shall commence or continue to carry Licence on business as a dealer unless he is the holder of a licence as a dealer issued by the Director.

(2) The Director shall issue a licence as a dealer to a Issue of  
licence person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of the opinion that,

- (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to carry on the business;



- (b) the past conduct of the applicant, or where applicant is a corporation, of its officers or directors, affords reasonable ground for belief that the business will not be carried on in accordance with the law;
- (c) the applicant is not in a position to observe and carry out the provisions of this Act and the regulations;
- (d) where the applicant was previously the holder of a licence and,
  - (i) such licence was revoked, or
  - (ii) the applicant or, where the applicant is a corporation, any officer, servant or director thereof or any person who will be in any way associated with the applicant in connection with the business, was convicted of an offence,

under this Act and the grounds for such cancellation or conviction warrant a refusal to issue the licence; or

- (e) the applicant is not financially responsible.

#### Renewal of licence

(3) Subject to section 9b, the Director shall renew a licence as a dealer on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.

#### Refusal to renew or suspension or revocation of licence

9b. The Director may refuse to renew or may suspend or revoke a licence as a dealer if, after a hearing, he is of the opinion that,

- (a) the licensee has ceased to possess or have available all premises, facilities and equipment necessary to carry on the business in accordance with this Act and the regulations;
- (b) the licensee or, where the licensee is a corporation any officer, director or servant thereof has contravened, or has permitted any person under his control or direction in connection with the business to contravene, any provision of this Act or the regulations or of any other law in force in Ontario applying to the carrying on of such business or the conditions for licensing and such contravention warrants such refusal to renew, suspension or revocation of the licence;

- (c) the licensee has failed to comply with an award of the Arbitration Board;
- (d) any other ground for refusal to renew, suspension or revocation specified in the regulations exists; or
- (e) any ground for refusing to issue a licence under subsection 2 of section 9a exists.

9c.—(1) No person shall commence or continue to engage in the operation of a controlled-atmosphere storage plant unless he is the holder of a licence as an operator of a controlled-atmosphere storage plant issued by the Director.

Licence for controlled-atmosphere storage plant

(2) No person shall commence or continue to engage in the packing or repacking of controlled-atmosphere fruit for sale by him unless he is the holder of a licence as a packer of controlled-atmosphere fruit issued by the Director.

Licence for packing or repacking controlled-atmosphere fruit

(3) The holder of a licence as an operator of a controlled-atmosphere storage plant shall be deemed to be the holder of a licence as a packer of controlled-atmosphere fruit.

Idem

(4) The Director shall issue a licence as an operator of a controlled-atmosphere storage plant or as a packer of controlled-atmosphere fruit to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of the opinion that,

Issue of licence

- (a) the applicant, or where the applicant is a corporation, its officers or directors, is or are not competent to carry on the business;
- (b) the past conduct of the applicant, or where the applicant is a corporation, of its officers or directors, affords reasonable ground for belief that the business will not be carried on in accordance with the law;
- (c) the applicant does not possess or will not have available all premises, facilities and equipment necessary to carry on the business in accordance with this Act and the regulations;
- (d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations;
- (e) where the applicant was previously the holder of a licence and,

(i) such licence was revoked, or

(ii) the applicant or, where the applicant is a corporation, any officer, servant or director thereof or any person who will be in any way associated with the applicant in connection with the business, was convicted of an offence,

under this Act and the grounds for such cancellation or conviction warrant a refusal to issue the licence; or

(f) the applicant is not financially responsible.

Renewal of  
licence

(5) Subject to section 9*d*, the Director shall renew a licence as an operator of a controlled-atmosphere storage plant or as a packer of controlled-atmosphere fruit on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.

Refusal to  
renew or  
suspension or  
revocation of  
licence

9*d*. The Director may refuse to renew or may suspend or revoke a licence as an operator of a controlled-atmosphere storage plant or as a packer of controlled-atmosphere fruit if, after a hearing, he is of the opinion that,

(a) the licensee has ceased to possess or have available all premises, facilities and equipment necessary to carry on the business in accordance with this Act and the regulations;

(b) the licensee, or where the licensee is a corporation, any officer, director or servant thereof has contravened or has permitted any person under his control or direction in connection with the business to contravene any provision of this Act or the regulations or of any other law in force in Ontario applying to the carrying on of such business or the conditions for licensing and such contravention warrants such refusal to renew, suspension or revocation of the licence;

(c) any other ground for refusal to renew, suspension or revocation specified in the regulations exists; or

(*d*) any ground for refusing to issue a licence under subsection 2 of section 9*c* exists.

Continuation  
of licence  
pending  
renewal

9*e*. Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee



has applied for a renewal of his licence and paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal.

9f.—(1) The notice of a hearing by the Director under section 9a, 9b, 9c or 9d shall afford the applicant or licensee a reasonable opportunity to show or achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence. Notice of hearing

(2) An applicant or licensee who is a party to proceedings in which the Director holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. Examination of written or documentary evidence

9g. Where the Director has refused to issue or renew or has suspended or revoked a licence pursuant to a hearing he may, at any time of his own motion or on the application of the person who was the applicant or licensee, vary or rescind his decision but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations. Variation of decision by Director

9h.—(1) A board to be known as the "Produce Licence Review Board" is hereby established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council, none of whom are members of the public service in the employ of the Ministry of Agriculture and Food. Produce Licence Review Board established

(2) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman. Chairman and vice-chairman

(3) A majority of the members of the Board constitutes a quorum. Quorum

(4) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. Remuneration

9i.—(1) Where the Director refuses to issue or renew or suspends or revokes a licence, the applicant or licensee may, by written notice delivered to the Director and filed with the Board within thirty days after receipt of the decision of the Director, appeal to the Board. Appeal to Board

Extension  
of time  
for appeal

(2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection 1 either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension

Disposal  
of appeal

(3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may after the hearing confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and the regulations and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director.

Idem

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Director, unless the Director otherwise directs the decision of the Director is effective until the appeal is disposed of.

Parties

9j.—(1) The Director, the appellant and such other persons as the Board may specify are parties to the proceeding before the Board under this Act.

Members  
making  
decision not  
to have taken  
part in  
investiga-  
tion, etc.

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of  
evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings  
of fact

(4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible on matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

1971, c. 47

Only  
members at  
hearing to  
participate in  
decision

(5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argu-



ment of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

9k.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Supreme Court in accordance with the rules of court. Appeal to court

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Minister entitled to be heard

(3) The chairman of the Board shall certify to the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Board's record, shall constitute the record in the appeal. Record to be filed in court

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the Director to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Director or the Board. Powers of court on appeal

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of. Effect of decision of Board pending disposal of appeal

9l.—(1) A board to be known as the "Produce Arbitration Board" is hereby established and shall consist of three persons appointed by the Lieutenant Governor in Council. Produce Arbitration Board established

(2) One of the members of the Arbitration Board shall be the holder of a licence as a dealer, one of the members shall be a producer of farm products and none of the members shall be members of the public service. Members

(3) The Lieutenant Governor in Council may appoint one of the members of the Arbitration Board as chairman. Chairman

(4) The members of the Arbitration Board shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. Remuneration and expenses

9m.—(1) Every contract between two contracting parties shall be deemed to provide that, where the parties have failed to resolve any dispute arising out of any term or Matter in dispute to be submitted to Arbitration Board

R.S.O. 1970,  
c. 25

Notice of  
matter in  
dispute

Idem

Director  
to notify  
members

Costs of  
reference and  
award

Board may  
direct  
payment to  
Treasurer  
of Ontario

Appeal from  
award

Commence-  
ment

Short title

condition of the contract whether express or implied, the matter in dispute shall be submitted for arbitration by the Arbitration Board and *The Arbitrations Act* applies, except where it is inconsistent with this Act.

(2) Either contracting party may refer the matter in dispute to the Arbitration Board by serving notice thereon upon the other contracting party and the Director.

(3) A notice under subsection 2 shall contain a statement of the matter in dispute and the name and address of the contracting party serving the notice.

(4) Where the Director receives a notice under subsection 2, he shall forthwith notify the members of the Arbitration Board accordingly.

(5) All costs of the reference and award are in the discretion of the Arbitration Board which may direct to and by whom and in what manner those costs or any part thereof shall be paid or may direct that no costs shall be paid as between the contracting parties.

(6) Notwithstanding *The Arbitrations Act*, no fees are payable by the parties to the members of the Arbitration Board for their services but the Arbitration Board may include in any award a direction to pay to the Treasurer of Ontario for the services of the Arbitration Board an amount which shall not exceed the total remuneration and expenses payable to the members of the Arbitration Board under subsection 4 of section 9/ respecting the reference and award.

9n. An appeal lies from an award of the Arbitration Board and section 16 of *The Arbitrations Act* applies as if it were agreed by the terms of a submission that there may be an appeal from the award.

4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

5. This Act may be cited as *The Farm Products Grades and Sales Amendment Act, 1974*.



An Act to amend  
The Farm Products Grades  
and Sales Act

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*1st Reading*

March 28th, 1974

*2nd Reading*

*3rd Reading*

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THE HON. W. A. STEWART  
Minister of Agriculture and Food

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(Government Bill)

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# **BILL 20**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act to amend The Farm Products Grades and Sales Act**

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**THE HON. W. A. STEWART  
Minister of Agriculture and Food**

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**TORONTO**

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## An Act to amend The Farm Products Grades and Sales Act

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Farm Products Grades and Sales Act*, being <sup>s. 1.</sup> chapter 161 of the Revised Statutes of Ontario, 1970, as <sup>re-enacted</sup> amended by the Statutes of Ontario, 1972, chapter 37, section 1, is repealed and the following substituted therefor:

1. In this Act,

Interpre-  
tation

- (a) "Arbitration Board" means the Produce Arbitration Board established under this Act;
- (b) "Board" means the Produce Licence Review Board established under this Act;
- (c) "contracting party" means,
  - (i) a producer of farm products who has entered into a contract with a licensee, or
  - (ii) a licensee who has entered into a contract with a producer of farm products,

respecting the marketing of any farm product;

- (d) "controlled-atmosphere fruit" means fruit that has been stored in a sealed compartment of a controlled-atmosphere storage plant for a period of at least ninety days from the date of the sealing thereof where the oxygen content of the air in the sealed compartment did not exceed 5 per cent during the storage;
- (e) "controlled-atmosphere storage plant" means premises and buildings constructed and equipped

for cold storage of fruit in sealed compartment within which the oxygen content of the air is mechanically controlled;

- (f) "dealer" means a person who purchases or accepts for sale a farm product from the producer thereof other than a person who purchases a farm product for his own consumption;
- (g) "Director" means the Director of the Farm Product Inspection Branch of the Ministry of Agriculture and Food;
- (h) "farm product" means such animals, animal products, Christmas trees, fruit, fruit products, grains, honey, maple products, seeds, tobacco, vegetables, vegetable products, wood or any class thereof and article of food or drink manufactured or derived in whole or in part from any of those products as are designated in the regulations;
- (i) "grade" means, except in subsection 4 of section 2, a grade established under this Act;
- (j) "grader" means a grader appointed under this Act;
- (k) "inspector" means an inspector appointed under this Act;
- (l) "licence" means a licence issued under this Act and "licensee" has a corresponding meaning;
- (m) "marker" means a marker issued under this Act;
- (n) "Minister" means the Minister of Agriculture and Food;
- (o) "motor vehicle" means a motor vehicle as defined in *The Highway Traffic Act*;
- (p) "package" includes any box, crate or other receptacle used for or suitable for use in the marketing, transporting or shipping of a farm product;
- (q) "regulations" means the regulations made under this Act.

R.S.O. 1970,  
c. 202

s. 2 (1) (m-p),  
re-enacted

2. Clauses *m*, *n*, *o* and *p* of subsection 1 of section 2 of the said Act are repealed and the following substituted therefor:

- (m) providing for the manner of issuing licences and prescribing their duration and the fees payable therefor;
- (n) prescribing the terms and conditions on which licences are issued;
- (o) prescribing grounds for refusal to renew, suspension or revocation of licences in addition to the grounds mentioned in section 9b or 9d;
- (p) providing for the issuing of markers for motor vehicles owned or leased by persons licensed as dealers and prescribing the fees payable therefor;
- (pa) prohibiting any person licensed as a dealer from transporting any farm product in a motor vehicle upon a highway in Ontario unless a marker has been issued respecting the vehicle and requiring any markers to be displayed in such manner as may be prescribed;
- (pb) requiring removal of any marker issued to a person whose licence as a dealer has been suspended or revoked;
- (pc) prescribing the form of and conditions in the bill of lading to be used in transporting or shipping a farm product in respect of which a bill of lading is not required under *The Public Commercial Vehicles Act*; R.S.O. 1970,  
c. 375
- (pd) prescribing records to be kept by dealers;
- (pe) prescribing forms and providing for their use.

**3.** The said Act is amended by adding thereto the following ss. 9a-9n,  
enacted  
sections:

9a.—(1) No person shall commence or continue to carry Licence  
on business as a dealer unless he is the holder of a licence  
as a dealer issued by the Director.

(2) The Director shall issue a licence as a dealer to a Issue of  
licence  
person who makes application therefor in accordance with  
this Act and the regulations and pays the prescribed fee  
unless, after a hearing, he is of the opinion that,

- (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to carry on the business;



- (b) the past conduct of the applicant, or where the applicant is a corporation, of its officers or directors affords reasonable ground for belief that the business will not be carried on in accordance with the law;
- (c) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations;
- (d) where the applicant was previously the holder of a licence and,
  - (i) such licence was revoked, or
  - (ii) the applicant or, where the applicant is a corporation, any officer, servant or director thereof or any person who will be in any way associated with the applicant in connection with the business, was convicted of an offence,

under this Act and the grounds for such cancellation or conviction warrant a refusal to issue the licence; or

- (e) the applicant is not financially responsible.

Renewal of  
licence

(3) Subject to section 9b, the Director shall renew a licence as a dealer on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.

Refusal to  
renew or  
suspension or  
revocation of  
licence

9b. The Director may refuse to renew or may suspend or revoke a licence as a dealer if, after a hearing, he is of the opinion that,

- (a) the licensee has ceased to possess or have available all premises, facilities and equipment necessary to carry on the business in accordance with this Act and the regulations;
- (b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened, or has permitted any person under his control or direction in connection with the business to contravene, any provision of this Act or the regulations or of any other law in force in Ontario applying to the carrying on of such business or the conditions for licensing and such contravention warrants such refusal to renew, suspension or revocation of the licence;



- (c) the licensee has failed to comply with an award of the Arbitration Board;
- (d) any other ground for refusal to renew, suspension or revocation specified in the regulations exists; or
- (e) any ground for refusing to issue a licence under subsection 2 of section 9a exists.

9c.—(1) No person shall commence or continue to engage in the operation of a controlled-atmosphere storage plant unless he is the holder of a licence as an operator of a controlled-atmosphere storage plant issued by the Director. Licence for controlled-atmosphere storage plant

(2) No person shall commence or continue to engage in the packing or repacking of controlled-atmosphere fruit for sale by him unless he is the holder of a licence as a packer of controlled-atmosphere fruit issued by the Director. Licence for packing or repacking controlled-atmosphere fruit

(3) The holder of a licence as an operator of a controlled-atmosphere storage plant shall be deemed to be the holder of a licence as a packer of controlled-atmosphere fruit. Idem

(4) The Director shall issue a licence as an operator of a controlled-atmosphere storage plant or as a packer of controlled-atmosphere fruit to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of the opinion that, Issue of licence

- (a) the applicant, or where the applicant is a corporation, its officers or directors, is or are not competent to carry on the business;
- (b) the past conduct of the applicant, or where the applicant is a corporation, of its officers or directors, affords reasonable ground for belief that the business will not be carried on in accordance with the law;
- (c) the applicant does not possess or will not have available all premises, facilities and equipment necessary to carry on the business in accordance with this Act and the regulations;
- (d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations;
- (e) where the applicant was previously the holder of a licence and,

(i) such licence was revoked, or

(ii) the applicant or, where the applicant is a corporation, any officer, servant or director thereof or any person who will be in any way associated with the applicant in connection with the business, was convicted of an offence,

under this Act and the grounds for such cancellation or conviction warrant a refusal to issue the licence; or

(f) the applicant is not financially responsible.

Renewal of  
licence

(5) Subject to section 9*d*, the Director shall renew a licence as an operator of a controlled-atmosphere storage plant or as a packer of controlled-atmosphere fruit on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.

Refusal to  
renew or  
suspension or  
revocation of  
licence

9*d*. The Director may refuse to renew or may suspend or revoke a licence as an operator of a controlled-atmosphere storage plant or as a packer of controlled-atmosphere fruit if, after a hearing, he is of the opinion that,

(a) the licensee has ceased to possess or have available all premises, facilities and equipment necessary to carry on the business in accordance with this Act and the regulations;

(b) the licensee, or where the licensee is a corporation, any officer, director or servant thereof has contravened or has permitted any person under his control or direction in connection with the business to contravene any provision of this Act or the regulations or of any other law in force in Ontario applying to the carrying on of such business or the conditions for licensing and such contravention warrants such refusal to renew, suspension or revocation of the licence;

(c) any other ground for refusal to renew, suspension or revocation specified in the regulations exists; or

(d) any ground for refusing to issue a licence under subsection 2 of section 9*c* exists.

Continuation  
of licence  
pending  
renewal

9*e*. Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee

has applied for a renewal of his licence and paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal.

9f.—(1) The notice of a hearing by the Director under section 9a, 9b, 9c or 9d shall afford the applicant or licensee a reasonable opportunity to show or achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence. Notice of hearing

(2) An applicant or licensee who is a party to proceedings in which the Director holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. Examination of written or documentary evidence

9g. Where the Director has refused to issue or renew or has suspended or revoked a licence pursuant to a hearing he may, at any time of his own motion or on the application of the person who was the applicant or licensee, vary or rescind his decision but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations. Variation of decision by Director

9h.—(1) A board to be known as the "Produce Licence Review Board" is hereby established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council, none of whom are members of the public service in the employ of the Ministry of Agriculture and Food. Produce Licence Review Board established

(2) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman. Chairman and vice-chairman

(3) A majority of the members of the Board constitutes a quorum. Quorum

(4) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. Remuneration

9i.—(1) Where the Director refuses to issue or renew or suspends or revokes a licence, the applicant or licensee may, by written notice delivered to the Director and filed with the Board within thirty days after receipt of the decision of the Director, appeal to the Board. Appeal to Board



Extension  
of time  
for appeal

(2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection 1, either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Disposal  
of appeal

(3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may after the hearing confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and the regulations and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director.

Idem

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Director, unless the Director otherwise directs the decision of the Director is effective until the appeal is disposed of.

Parties

9j.—(1) The Director, the appellant and such other persons as the Board may specify are parties to the proceeding before the Board under this Act.

Members  
making  
decision not  
to have taken  
part in  
investiga-  
tion, etc.

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of  
evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings  
of fact

(4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

1971, c. 47

Only  
members at  
hearing to  
participate in  
decision

(5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argu-

ment of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

9k.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Supreme Court in accordance with the rules of court. Appeal to court

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Minister entitled to be heard

(3) The chairman of the Board shall certify to the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Board's record, shall constitute the record in the appeal. Record to be filed in court

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the Director to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Director or the Board. Powers of court on appeal

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of. Effect of decision of Board pending disposal of appeal

9l.—(1) A board to be known as the "Produce Arbitration Board" is hereby established and shall consist of three persons appointed by the Lieutenant Governor in Council. Produce Arbitration Board established

(2) One of the members of the Arbitration Board shall be the holder of a licence as a dealer, one of the members shall be a producer of farm products and none of the members shall be members of the public service. Members

(3) The Lieutenant Governor in Council may appoint one of the members of the Arbitration Board as chairman. Chairman

(4) The members of the Arbitration Board shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. Remuneration and expenses

9m.—(1) Every contract between two contracting parties shall be deemed to provide that, where the parties have failed to resolve any dispute arising out of any term or Matter in dispute to be submitted to Arbitration Board



R.S.O. 1970, c. 25	condition of the contract whether express or implied, the matter in dispute shall be submitted for arbitration by the Arbitration Board and <i>The Arbitrations Act</i> applies, except where it is inconsistent with this Act.
Notice of matter in dispute	(2) Either contracting party may refer the matter in dispute to the Arbitration Board by serving notice thereon upon the other contracting party and the Director.
Idem	(3) A notice under subsection 2 shall contain a statement of the matter in dispute and the name and address of the contracting party serving the notice.
Director to notify members	(4) Where the Director receives a notice under subsection 2, he shall forthwith notify the members of the Arbitration Board accordingly.
Costs of reference and award	(5) All costs of the reference and award are in the discretion of the Arbitration Board which may direct to and by whom and in what manner those costs or any part thereof shall be paid or may direct that no costs shall be paid as between the contracting parties.
Board may direct payment to Treasurer of Ontario	(6) Notwithstanding <i>The Arbitrations Act</i> , no fees are payable by the parties to the members of the Arbitration Board for their services but the Arbitration Board may include in any award a direction to pay to the Treasurer of Ontario for the services of the Arbitration Board an amount which shall not exceed the total remuneration and expenses payable to the members of the Arbitration Board under subsection 4 of section 91 respecting the reference and award.
Appeal from award	9n. An appeal lies from an award of the Arbitration Board and section 16 of <i>The Arbitrations Act</i> applies as if it were agreed by the terms of a submission that there may be an appeal from the award.
Commence- ment	4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.
Short title	5. This Act may be cited as <i>The Farm Products Grades and Sales Amendment Act, 1974</i> .







An Act to amend  
The Farm Products Grades  
and Sales Act

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*1st Reading*

March 28th, 1974

*2nd Reading*

April 9th, 1974

*3rd Reading*

April 9th, 1974

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THE HON. W. A. STEWART  
Minister of Agriculture and Food

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act to amend The Agricultural Societies Act**

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**THE HON. W. A. STEWART  
Minister of Agriculture and Food**

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#### EXPLANATORY NOTES

SECTION 1.—Subsections 1 and 2. These subsections amend the appropriate clauses in the definition section to reflect the change in name of the Ministry.

Subsection 3. The present clause *f* of section 1 of the Act defines "Superintendent" as the Superintendent of Agricultural Societies and there is no provision in the Act for appointing a Superintendent. This subsection amends clause *f* to provide that the Director of the Agricultural and Horticultural Societies Branch of the Ministry is the Superintendent.

SECTION 2.—Subsection 1. At present, the organizing members of a society must reside within ten miles of the headquarters of the proposed society. This subsection amends paragraph 1 of section 4 of the Act to increase the distance to twenty-five miles.

Subsection 2. At present, organizing members are required to pay \$1 to the organizer for the initial funds of the society. This subsection amends paragraph 3 of section 4 of the Act to increase the amount to \$2 per person.

## An Act to amend The Agricultural Societies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *b* of section 1 of *The Agricultural Societies Act*, being chapter 15 of the Revised Statutes of Ontario, 1970, is repealed. s. 1 (b),  
repealed
- (2) The said section 1 is amended by adding thereto the s. 1,  
amended following clause:
 

(da) "Ministry" means the Ministry of Agriculture and Food.
- (3) Clause *f* of the said section 1 is repealed and the s. 1 (f),  
re-enacted following substituted therefor:
 

(f) "Superintendent" means the Director of the Agricultural and Horticultural Societies Branch of the Ministry.
2. Paragraphs 1, 3, 6 and 10 of section 4 of the said Act s. 4, para. 1,  
3, 6, 10,  
re-enacted are repealed and the following substituted therefor:
  1. A declaration in the form prescribed by the Minister declaration shall be signed by the persons who desire to organize a society, but such persons must be of the age of eighteen years or over and must reside within twenty-five miles of the place designated in the declaration as the headquarters of such society.
  3. Every person who signs the declaration shall pay fees payable  
by  
signatories to the person having charge thereof the sum of not less than \$2 at the time of signing the

declaration and all such sums of money become the property of the society upon its organization but, where no society is organized, such sums shall be repaid to the persons entitled thereto.

quorum

6. At the organization meeting, and at every annual and special meeting of a society, fifteen members shall form a quorum but, in a provisional judicial district or provisional county, ten members shall form a quorum.

transmission  
of report of  
organization  
meeting

10. A report of the organization meeting certified by the president, the secretary and the organization containing a statement of the members and list of the officers elected and appointed, shall be sent to the Superintendent within one month after the holding of the meeting.

s. 6 (3),  
re-enacted

3. Subsection 3 of section 6 of the said Act is repealed and the following substituted therefor:

Membership  
fee

- (3) In every society there shall be an annual membership fee of not less than \$2.

s. 8 (1)(e),  
re-enacted

4. Clause *e* of subsection 1 of section 8 of the said Act is repealed and the following substituted therefor:

(*e*) encouraging and promoting reforestation, rural beautification and exterior farm and homestead improvements.

s. 11 (1),  
re-enacted

- 5.—(1) Subsection 1 of section 11 of the said Act is repealed and the following substituted therefor:

Statement to  
be sent to  
Super-  
intendent

- (1) A statement of officers and members and a copy of the report and financial statement in the form prescribed by the Minister and certified by the president, secretary and treasurer, or secretary-treasurer, and auditors to be true copies shall be forwarded to the Superintendent within ninety days after the holding of the annual meeting.

s. 11 (3),  
re-enacted

- (2) Subsection 3 of the said section 11 is repealed and the following substituted therefor:

Statement  
as to com-  
petitions, etc.

- (3) Where a society exhibits a display of a farm product that is produced on a commercial basis or holds a field-crop or other competition or sponsors an amateur



Subsection 3. At present, the quorum for meetings is fifteen members. This subsection amends paragraph 6 of section 4 of the Act to lower the quorum to ten members in the case of societies in provisional judicial districts and provisional counties.

Subsection 4. At present, the report of the organization meeting must be sent to the Superintendent within one week of the meeting. This subsection amends paragraph 10 of section 4 of the Act to extend the time limit to one month.

SECTION 3. This section increases the mandatory minimum membership fee for societies from \$1 to \$2.

SECTION 4. This section amends clause c of section 8 of the Act to include the encouraging and promoting of exterior farm and homestead improvements among the defined objects of a society.

SECTION 5—Subsection 1. This subsection amends subsection 1 of section 11 of the Act respecting the report to the Superintendent regarding a society's annual meeting. At present, the time limit for submitting this report is one month. The amendment increases the time limit to ninety days.

Subsection 2. This subsection amends subsection 3 of section 11 of the Act respecting reports to the Superintendent regarding displays and competitions, expenditures and prizes for the same, etc., and is complementary to section 8 of the Bill.



SECTION 6. This section amends subsection 7 of section 16 of the Act relating to remuneration and expenses. The present subsection prohibits officers of the society from receiving remuneration. The new provision prohibits officers, directors and members from receiving remuneration for carrying out their duties as officer, director or member. In both the present subsection and the new subsection, the secretary, treasurer, secretary-treasurer and manager are specific exceptions to this rule. Also, under the present subsection, only officers may be paid for travelling and living expenses while engaged in society business. The new subsection permits payment of expenses to any officer, director or member while so engaged.

SECTION 7. Complementary to section 10 of the Bill.

SECTION 8. This section amends paragraphs 2 and 3 of subsection 1 of section 24 of the Act relating to grants. In paragraph 2, subparagraphs i, ii and iii provide for grants respecting matters not provided for in the present paragraph. In paragraph 3, subparagraph ii is new and prohibits payment of an annual grant in respect of matters for which a specific grant is payable.

program, using local talent to provide entertainment, and such display, competition, or amateur program is approved by the Superintendent, the officers of the society shall within ninety days thereafter forward to the Superintendent on a form supplied by the Ministry a statement showing the particulars of the display, competition or amateur program including, where applicable, the number of entries and the expenditures, including prizes awarded, in connection therewith.

6. Subsection 7 of section 16 of the said Act is repealed <sup>s. 16 (7),</sup> and the following substituted therefor: <sup>re-enacted</sup>

(7) No officer, director or member of a society, except the secretary, treasurer, secretary-treasurer or manager, shall receive any remuneration for carrying out his duties as officer, director or member, but travelling and living expenses may be allowed to any officer, director or member while engaged in duties on behalf of the society, and the board may fix such remuneration and travelling and living expenses, which shall be payable out of the funds of the society. <sup>Remuneration and expenses</sup>

7. Subsection 2 of section 19 of the said Act is repealed <sup>s. 19 (2),</sup> and the following substituted therefor: <sup>re-enacted</sup>

(2) The officers of a society may by their rules and regulations prohibit and prevent theatrical, circus or acrobatic performances, exhibitions or shows and may also regulate or prevent the huckstering or trafficking in fruit, goods, wares or merchandise on the exhibition grounds or within three hundred yards thereof on the day of an exhibition, and any person who, after notice of such rules and regulations, contravenes any provisions thereof is liable to be removed by an officer of the society, a person appointed under subsection 1 of section 30, or a police officer, and is liable to the penalties provided in this Act. <sup>Preventing certain performances, huckstering, etc.</sup>

8. Paragraphs 2 and 3 of subsection 1 of section 24 of the said Act are repealed and the following substituted therefor: <sup>s. 24 (1),</sup> <sup>para. 2, 3,</sup> <sup>re-enacted</sup>

2. Where a society complies with subsection 3 of section 11, and its statement is satisfactory to the Superintendent, it shall receive a grant,

- i. where it has sponsored a farm or home-stead improvement competition, equal to one-half of the sum expended by the society as shown by the statement of its expenditures for the competition, but in no case shall the grant be more than \$300,

- ii. where it has sponsored a special event with light horses, equal to one-third of the sum expended by the society as shown by the statement of its expenditures for the event, but in no case shall the grant be more than \$500,
  - iii. where it has sponsored an amateur program, using local talent to provide entertainment, equal to one-third of the sum expended by the society as shown by the statement of its expenditures for the amateur program, but in no case shall the grant be more than \$500, and
  - iv. where it has sponsored a display or competition not referred to in sub-paragraph i, ii or iii, equal to one-half of the sum expended by the society as shown by the statement of its expenditures for the display or competition, but in no case shall the grant be more than \$200 for a display or more than \$75 for a competition.
3. Where a society complies with subsections 1 and 2 of section 11 and its statement is satisfactory to the Superintendent, it shall receive a grant equal to one-third of the average amount expended by the society during the three preceding years for agricultural purposes, as shown by the statement forwarded to the Superintendent, but,
- i. societies in a provisional judicial district or provisional county shall receive their grants on the basis of double the amount of other societies,
  - ii. no grant shall be paid under this paragraph respecting an expenditure qualifying for a grant under paragraph 2, and
  - iii. no society shall in any year receive a grant in excess of \$1,500.

s. 27 (1),  
re-enacted

9. Subsection 1 of section 27 of the said Act is repealed and the following substituted therefor:

Grants  
from  
municipal  
councils

(1) Any municipal council may grant or loan money or grant land in aid of any agricultural society formed within the limits of the municipality, or partly within

SECTION 9. This section amends subsection 1 of section 27 of the Act relating to grants, loans, etc., by municipalities to societies. The present subsection imposes limits of \$5,000, \$2,000 and \$1,000 in the case of cities, towns and villages respectively. These limits are removed.



SECTION 10. At present, section 30 of the Act provides for the appointment of constables by a justice of the peace on the request of a society. The amendment provides for the appointment by a society of persons to carry out the duties prescribed.

SECTION 11. The application of section 33 of the Act is enlarged and the maximum fine is increased from \$50 to \$100.



the limits of such municipality and partly within the limits of other municipalities, or wholly within the limits of an adjoining municipality, when such society has made the returns required by this Act.

10. Section 30 of the said Act is repealed and the following <sup>s. 30.</sup> substituted therefor: <sup>re-enacted</sup>

30.—(1) The board of directors of any society holding <sup>Appoint-</sup> a fair or exhibition may appoint for the duration of the <sup>ments</sup> fair or exhibition as many persons as may be required to carry out the duties referred to in subsection 2.

(2) Every person appointed under subsection 1 shall be <sup>Duties of</sup> paid by the society and it is his duty to protect the prop- <sup>persons</sup> erty of the society within the exhibition grounds and to <sup>appointed</sup> eject all persons who may be improperly within the grounds or behave in a disorderly manner or violate any of the rules or regulations of the society.

(3) No person shall wilfully hinder or obstruct an officer <sup>Obstruction</sup> or servant of the society or a person appointed under <sup>of officer.</sup> subsection 1 in the execution of his duties. <sup>etc.</sup>

11. Section 33 of the said Act is repealed and the following <sup>s. 33.</sup> substituted therefor: <sup>re-enacted</sup>

33. Every person who contravenes any of the provisions <sup>Offence</sup> of this Act or the regulations or any rule or regulation of a society under subsection 2 of section 19 or who gains admission to the grounds contrary to the rules of the society is guilty of an offence, and on summary conviction is liable to a fine of not more than \$100.

12. This Act comes into force on the day it receives Royal <sup>Commence-</sup> Assent. <sup>ment</sup>

13. This Act may be cited as *The Agricultural Societies Amend-* <sup>Short title</sup> *ment Act, 1974.*

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*1st Reading*

March 28th, 1974

*2nd Reading*

*3rd Reading*

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THE HON. W. A. STEWART  
Minister of Agriculture and Food

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*(Government Bill)*

# **BILL 21**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act to amend The Agricultural Societies Act**

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**THE HON. W. A. STEWART  
Minister of Agriculture and Food**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**



## An Act to amend The Agricultural Societies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. (1) Clause *b* of section 1 of *The Agricultural Societies Act*, being chapter 15 of the Revised Statutes of Ontario, 1970, is repealed. <sup>s. 1 (b), repealed</sup>
- (2) The said section 1 is amended by adding thereto the <sup>s. 1, amended</sup> following clause:
 

(*da*) "Ministry" means the Ministry of Agriculture and Food.
- (3) Clause *f* of the said section 1 is repealed and the <sup>s. 1 (f), re-enacted</sup> following substituted therefor:
 

(*f*) "Superintendent" means the Director of the Agricultural and Horticultural Societies Branch of the Ministry.
2. Paragraphs 1, 3, 6 and 10 of section 4 of the said Act <sup>s. 4, para. 1, 3, 6, 10, re-enacted</sup> are repealed and the following substituted therefor:
  1. A declaration in the form prescribed by the Minister <sup>declaration</sup> shall be signed by the persons who desire to organize a society, but such persons must be of the age of eighteen years or over and must reside within twenty-five miles of the place designated in the declaration as the headquarters of such society.
  3. Every person who signs the declaration shall pay <sup>fees payable by</sup> to the person having charge thereof the sum of <sup>signatories</sup> not less than \$2 at the time of signing the



declaration and all such sums of money become the property of the society upon its organization but, where no society is organized, such sum shall be repaid to the persons entitled thereto.

quorum

6. At the organization meeting, and at every annual and special meeting of a society, fifteen members shall form a quorum but, in a provisional judicial district or provisional county, ten members shall form a quorum.

transmission  
of report of  
organization  
meeting

10. A report of the organization meeting certified by the president, the secretary and the organizer containing a statement of the members and a list of the officers elected and appointed, shall be sent to the Superintendent within one month after the holding of the meeting.

s. 6 (3),  
re-enacted

3. Subsection 3 of section 6 of the said Act is repealed and the following substituted therefor:

Membership  
fee

- (3) In every society there shall be an annual membership fee of not less than \$2.

s. 8 (1)(e),  
re-enacted

4. Clause *e* of subsection 1 of section 8 of the said Act is repealed and the following substituted therefor:

- (e) encouraging and promoting reforestation, rural beautification and exterior farm and homestead improvements.

s. 11 (1),  
re-enacted

- 5.—(1) Subsection 1 of section 11 of the said Act is repealed and the following substituted therefor:

Statement to  
be sent to  
Super-  
intendent

- (1) A statement of officers and members and a copy of the report and financial statement in the form prescribed by the Minister and certified by the president, secretary and treasurer, or secretary-treasurer, and auditors to be true copies shall be forwarded to the Superintendent within ninety days after the holding of the annual meeting.

s. 11 (3),  
re-enacted

- (2) Subsection 3 of the said section 11 is repealed and the following substituted therefor:

Statement  
as to com-  
petitions, etc.

- (3) Where a society exhibits a display of a farm product that is produced on a commercial basis or holds a field-crop or other competition or sponsors an amateur

program, using local talent to provide entertainment, and such display, competition, or amateur program is approved by the Superintendent, the officers of the society shall within ninety days thereafter forward to the Superintendent on a form supplied by the Ministry a statement showing the particulars of the display, competition or amateur program including, where applicable, the number of entries and the expenditures, including prizes awarded, in connection therewith.

6. Subsection 7 of section 16 of the said Act is repealed <sup>s. 16 (7),</sup> and the following substituted therefor: <sup>re-enacted</sup>

(7) No officer, director or member of a society, except the secretary, treasurer, secretary-treasurer or manager, shall receive any remuneration for carrying out his duties as officer, director or member, but travelling and living expenses may be allowed to any officer, director or member while engaged in duties on behalf of the society, and the board may fix such remuneration and travelling and living expenses, which shall be payable out of the funds of the society. <sup>Remuneration and expenses</sup>

7. Subsection 2 of section 19 of the said Act is repealed and the following substituted therefor: <sup>s. 19 (2),</sup> <sup>re-enacted</sup>

(2) The officers of a society may by their rules and regulations prohibit and prevent theatrical, circus or acrobatic performances, exhibitions or shows and may also regulate or prevent the huckstering or trafficking in fruit, goods, wares or merchandise on the exhibition grounds or within three hundred yards thereof on the day of an exhibition, and any person who, after notice of such rules and regulations, contravenes any provisions thereof is liable to be removed by an officer of the society, a person appointed under subsection 1 of section 30, or a police officer, and is liable to the penalties provided in this Act. <sup>Preventing certain performances, huckstering, etc.</sup>

8. Paragraphs 2 and 3 of subsection 1 of section 24 of the said Act are repealed and the following substituted therefor: <sup>s. 24 (1),</sup> <sup>para. 2, 3,</sup> <sup>re-enacted</sup>

2. Where a society complies with subsection 3 of section 11, and its statement is satisfactory to the Superintendent, it shall receive a grant,

- i. where it has sponsored a farm or home-stead improvement competition, equal to one-half of the sum expended by the society as shown by the statement of its expenditures for the competition, but in no case shall the grant be more than \$300,

- ii. where it has sponsored a special event with light horses, equal to one-third of the sum expended by the society as shown by the statement of its expenditures for the event, but in no case shall the grant be more than \$500,
  - iii. where it has sponsored an amateur program, using local talent to provide entertainment, equal to one-third of the sum expended by the society as shown by the statement of its expenditures for the amateur program, but in no case shall the grant be more than \$500, and
  - iv. where it has sponsored a display or competition not referred to in sub-paragraph i, ii or iii, equal to one-half of the sum expended by the society as shown by the statement of its expenditures for the display or competition, but in no case shall the grant be more than \$200 for a display or more than \$75 for a competition.
3. Where a society complies with subsections 1 and 2 of section 11 and its statement is satisfactory to the Superintendent, it shall receive a grant equal to one-third of the average amount expended by the society during the three preceding years for agricultural purposes, as shown by the statement forwarded to the Superintendent, but,
- i. societies in a provisional judicial district or provisional county shall receive their grants on the basis of double the amount of other societies,
  - ii. no grant shall be paid under this paragraph respecting an expenditure qualifying for a grant under paragraph 2, and
  - iii. no society shall in any year receive a grant in excess of \$1,500.

s. 27 (1),  
re-enacted

9. Subsection 1 of section 27 of the said Act is repealed and the following substituted therefor:

Grants  
from  
municipal  
councils

- (1) Any municipal council may grant or loan money or grant land in aid of any agricultural society formed within the limits of the municipality, or partly within



the limits of such municipality and partly within the limits of other municipalities, or wholly within the limits of an adjoining municipality, when such society has made the returns required by this Act.

10. Section 30 of the said Act is repealed and the following <sup>s. 30.</sup> substituted therefor: <sup>re-enacted</sup>

30.—(1) The board of directors of any society holding <sup>Appoint-</sup> a fair or exhibition may appoint for the duration of the <sup>ments</sup> fair or exhibition as many persons as may be required to carry out the duties referred to in subsection 2.

(2) Every person appointed under subsection 1 shall be <sup>Duties of</sup> paid by the society and it is his duty to protect the prop- <sup>persons</sup> erty of the society within the exhibition grounds and to <sup>appointed</sup> eject all persons who may be improperly within the grounds or behave in a disorderly manner or violate any of the rules or regulations of the society.

(3) No person shall wilfully hinder or obstruct an officer <sup>Obstruction</sup> or servant of the society or a person appointed under <sup>of officer.</sup> subsection 1 in the execution of his duties. <sup>etc.</sup>

11. Section 33 of the said Act is repealed and the following <sup>s. 33.</sup> substituted therefor: <sup>re-enacted</sup>

33. Every person who contravenes any of the provisions <sup>Offence</sup> of this Act or the regulations or any rule or regulation of a society under subsection 2 of section 19 or who gains admission to the grounds contrary to the rules of the society is guilty of an offence, and on summary conviction is liable to a fine of not more than \$100.

12. This Act comes into force on the day it receives Royal <sup>Commence-</sup> Assent. <sup>ment</sup>

13. This Act may be cited as *The Agricultural Societies Amend-* <sup>Short title</sup> *ment Act, 1974.*

An Act to amend  
The Agricultural Societies Act

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*1st Reading*

March 28th, 1974

*2nd Reading*

April 9th, 1974

*3rd Reading*

June 25th, 1974

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THE HON. W. A. STEWART  
Minister of Agriculture and Food

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO**  
**23 Elizabeth II, 1974**

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**The Health Disciplines Act, 1974**

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**THE HON. F. S. MILLER**  
**Minister of Health**

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#### EXPLANATORY NOTE

The Bill re-enacts the legislation governing five major health professions:

1. Dentistry.
2. Medicine.
3. Nursing.
4. Optometry.
5. Pharmacy.

The Bill incorporates recommendations of the Committee on the Healing Arts and of the Royal Commission Inquiry into Civil Rights, Vol. 3, Section 4.

The principal changes are:

1. lay representation on the professional governing council;
2. closer supervisory powers in the Minister;
3. the creation of a health disciplines board for the purpose of conducting hearings and review respecting complaints and applications for licensing;
4. a complete system of hearings and review for all matters of licensing and discipline with uniformity of procedures for all professions.

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## BILL 22

1974

**The Health Disciplines Act, 1974**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**PART I****GENERAL****1. (1) In this Act,****Interpre-  
tation**

- (a) "Board" means the Health Disciplines Board established under section 6;
- (b) "health discipline" means a health discipline to which a Part of this Act applies;
- (c) "Minister" means the Minister of Health;
- (d) "regulations" means the regulations made under this Act.

**(2) In this Part,****Idem**

- (a) "College" means the corporate body of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;
- (b) "complaints committee" means the complaints committee of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;
- (c) "Council" means the governing body of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;



(d) "discipline committee" means the discipline committee of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;

(e) "registration" means,

(i) a licence to practise a health discipline or group of health disciplines issued under a Part of this Act requiring a licence to practise, or

(ii) a certificate respecting the practising of a health discipline or group of health disciplines issued under a Part of this Act,

the issuance of which is required to be entered on the register of the appropriate College, and "registered" has a corresponding meaning.

References  
to hearings  
1971, c. 47

(3) Nothing in this Act shall be construed to require a hearing to be held within the meaning of *The Statutory Powers Procedure Act, 1971* unless the holding of a hearing is specifically referred to.

Administra-  
tion of Act

**2.** The Minister is responsible for the administration of this Act.

Duties of  
Minister

**3.—**(1) It is the duty of the Minister to ensure that the activities of health disciplines are effectively regulated and co-ordinated in the public interest, to have appropriate standards of practice developed and ensure that these are maintained and to ensure that the rights of individuals to the services provided by health disciplines of their choice are maintained and to these ends to,

(a) inquire into or direct the appropriate Council or Councils to inquire into the state of the practice of one or more health disciplines in any locality or institution;

(b) require Councils to provide such reports and information as the Minister requires for his purposes including information from the registers of the Colleges;

(c) review proposals by a Council for changes in legislation or regulations of concern to that Council;

- (d) consider the by-laws of Councils and provide advice and guidance to Councils with respect to the proposed implementation or revision of such by-laws;
- (e) request a Council to make, amend or revoke regulations respecting any of the matters specified in its applicable Part; and
- (f) review legislation respecting the provision of health services by health disciplines.

(2) Where the Minister requests in writing that a Council make, amend or revoke a regulation under clause *e* of subsection 1 and the Council has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request.

Regulations by Lieutenant Governor in Council

(3) The Minister may appoint such advisory committees as he considers desirable and appropriate to assist him in carrying out his duties under this Act.

Appointment of advisory committees

4. Where the Minister proposes changes to be made in legislation or regulations respecting a health discipline, the Minister shall distribute the proposals to all health disciplines and all health disciplines are entitled to make submissions to the Minister with respect to such proposals.

Distribution of proposed changes in legislation or regulations

5. Where a College has incurred expenses in complying with the directions of the Minister under this Part, the Minister may, out of moneys appropriated therefor by the Legislature, make appropriate payments to reimburse the College in whole or in part for the expenses incurred.

Payments to Council

6.—(1) There is hereby established a body to be known as the Health Disciplines Board.

Health Disciplines Board

(2) The Board shall be composed of not fewer than five and not more than seven members who shall be appointed by the Lieutenant Governor in Council on the recommendation of the Minister, and the Lieutenant Governor in Council shall designate one of the members of the Board to be chairman and one to be vice-chairman.

Composition

(3) No person who is employed in the public service of Ontario or of any agency of the Crown, or who is or has been

Disqualification

a member of a Council or who is or has been registered under this Act or any other Act governing a health practice shall be a member of the Board.

## Term

(4) The members of the first Board may be appointed for a term of one, two or three years and thereafter appointments and reappointments shall be for a term of three years.

## Vacancies

(5) Every vacancy on the Board caused by the death, resignation or incapacity of a member, may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member.

## Quorum

(6) A majority of the members of the Board constitutes a quorum.

## Remuneration

(7) The members of the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.

## Seal

(8) The Board may prescribe and adopt a seal.

Board  
employees  
R.S.O. 1970,  
c. 386

(9) Such employees as are necessary to carry out the duties of the Board under this Act shall be employed under *The Public Service Act*.

## Duties of Board

**7.—**(1) The Board shall,

- (a) conduct such hearings and perform such duties as are assigned to it by or under this or any other Act; and
- (b) submit an annual report on its activities to the Minister and which shall include such information as the Minister may require.

## Legal advice

(2) The Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

## Complaints

**8.—**(1) Where a complaints committee has made a disposition of a complaint respecting a member of its College in



accordance with the provisions of the applicable Part of this Act governing that College, the Registrar of the College shall send to the member and to the complainant by prepaid first class mail, a copy of the written decision made by the complaints committee together with notice advising the complainant of his right of review under subsection 2.

(2) A complainant or the member complained against who is not satisfied with the decision made by a complaints committee disposing of a complaint, except a decision to refer a matter to the discipline committee, may within twenty days of receipt of the written decision request the Board to review the decision and the Board shall require the Registrar of the College to transmit to the Board within fifteen days of the Board's request, a record of the investigation and all such documents and things upon which the decision was based and the Board shall review the decision.

Review of  
complaints

9. Where a complaint respecting a member of a College has not been disposed of by the complaints committee of the College within sixty days after the complaint is made, the Board upon application therefor may require the complaints committee to make an investigation and, where the investigation of the complaint has not been undertaken, completed and reported on to the Board by the committee within sixty days after the Board's request, the Board shall undertake such investigation and possesses all the powers of investigation that the complaints committee has conferred upon it in the applicable Part of this Act.

Investigation  
of complaint  
by Board

10.—(1) The Board may after review or investigation of a complaint under section 8 or 9 refer the complaint to the complaints committee and the Board may,

Powers of  
Board after  
review or  
investigation  
of complaint

- (a) confirm the decision, if any, made by the complaints committee;
- (b) make such recommendations to the complaints committee as the Board considers appropriate; or
- (c) require the complaints committee to take such action or proceedings as the committee is authorized to undertake under the applicable Part of this Act.

(2) Three members of the Board constitute a quorum for purposes of investigation or review of a complaint under section 8 or 9 or a hearing under section 11.

Board  
quorum

Notice of  
proposal  
to refuse  
registration

11.—(1) Where a registration committee proposes to refuse to grant registration to an applicant, or proposes to attach terms, conditions or limitations to a registration, the Registrar on behalf of the committee shall serve notice of the proposal of the committee, together with written reasons therefor, on the applicant or registrant and a copy thereof to the Board.

Exemptions

(2) Subsection 1 does not apply to a refusal to grant registration to a person who was previously registered and whose registration was suspended or revoked as a result of a decision of a discipline committee.

Notice  
requiring  
hearing or  
review

(3) A notice under subsection 1 shall inform the applicant or registrant that he is entitled to a hearing by the Board or to a review by the Board of his application and documentary evidence in support thereof without oral evidence, if he mails or delivers within fifteen days after the notice under subsection 1 is served on him, notice in writing to the Board requiring a hearing or such review by the Board, as he specifies.

Powers of  
registration  
committee  
where  
hearing  
or review

(4) Where an applicant or registrant does not require a hearing or review by the Board in accordance with subsection 3, the Board shall so notify the registration committee making the proposal and the committee may carry out the proposal stated in its notice under subsection 1.

Findings  
of fact

(5) The findings of fact of the Board pursuant to a hearing or review shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

1971, c. 47

Procedures on  
hearings

(6) The provisions of subsections 2 to 5 and subsections 7 and 8 of section 12 apply *mutatis mutandis* to proceedings before the Board under this section.

Powers of  
Board  
upon hearing  
or review

(7) The Board shall, after the hearing or review,

- (a) confirm the proposed decision of the registration committee; or
- (b) require the registration committee to permit the applicant to take qualifying examinations or additional training as a condition for registration, or both as specified by the registration committee; or
- (c) require the registration committee to direct the Registrar to register the applicant on any appro-



priate register subject to such conditions as the Board considers appropriate in cases where the Board finds that the applicant meets the requirements for registration and that the committee has exercised its powers improperly; or

- (d) refer the matter back to the registration committee for further consideration and the Board may make such recommendations as it considers appropriate in the circumstances.

(8) The registration committee and the applicant or Parties registrant are parties to proceedings before the Board under this section.

(9) Any party to proceedings before the Board under this Appeals section may appeal from its decision or order to the Supreme Court in accordance with the rules of court and the provisions of section 13 apply *mutatis mutandis* as if it were an appeal from a decision or order of a discipline committee.

**12.—**(1) In proceedings before the discipline committee Parties to discipline proceedings of a College, the College and the member of the College whose conduct is being investigated in the proceedings are parties to the proceedings.

(2) A member whose conduct is being investigated in Examination of documentary evidence proceedings before a discipline committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which shall be given in evidence at the hearing.

(3) Members of a discipline committee holding a hearing Members holding hearing not to have taken part in investigation, etc. shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Council considering the referral of the matter to the discipline committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the committee may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

(4) Notwithstanding anything in *The Statutory Powers of Procedure Act, 1971*, hearings of the discipline committee shall be held *in camera*, but, if the person whose conduct is being investigated requests otherwise by a notice delivered to the Registrar before the day fixed for the hearing, the committee shall conduct the hearing in public except where, *In camera* 1971, c. 47

(a) matters involving public security may be disclosed;  
or

(b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

Recording of  
evidence

(5) The oral evidence taken before a discipline committee shall be recorded and, if so required, copies or a transcript thereof shall be furnished only to the parties at their own cost.

Evidence  
1971, c. 47

(6) Notwithstanding *The Statutory Powers Procedure Act, 1971* nothing is admissible in evidence before a discipline committee that would be inadmissible in a court in a civil case and the findings of a discipline committee shall be based exclusively on evidence admitted before it.

Only members  
at hearing to  
participate  
in decision

(7) No member of a discipline committee shall participate in a decision of the committee pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Release of  
documentary  
evidence

(8) Documents and things put in evidence at a hearing of a discipline committee shall, upon the request of the person who produced them, be released to him by the committee within a reasonable time after the matter in issue has been finally determined.

Appeal to  
court

**13.—**(1) Any party to proceedings before a discipline committee may appeal from its decision or order to the Supreme Court in accordance with the rules of court.

Powers of  
court on  
appeal

(2) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the committee appealed from and may exercise all powers of the committee and may direct the committee or the College to take any action which the committee or the College may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the committee, or the court may refer the matter back to the committee for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Service of  
notice

**14.—**(1) Except where otherwise provided, any notice or document required by this Act to be served may be served personally or by prepaid first class mail addressed to the person to whom notice is to be given at his last known address and, where notice is served by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence,



accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date.

(2) Every member of the Health Disciplines Board and of the discipline committee of a College has power to administer oaths and affirmations for the purposes of any of its proceedings.

Admin-  
istering  
oaths

15. Any statement containing information from the records required to be kept by a Registrar under any Part of this Act, purporting to be certified by the Registrar under the seal of the College is admissible in evidence in all courts as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the Registrar and without proof of the seal.

Registrar's  
certificate  
as evidence

16. No action or other proceeding for damages shall be instituted against the Board, a College, a Council, a committee or any member of the Board, Council or committee, or any officers, servants, agents or appointees of the Board, or a College for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Immunity of  
Board,  
College,  
Councils and  
committees

17. No duly registered member of a College is liable to any action for negligence or malpractice, by reason of professional services requested or rendered, unless such action is commenced within two years from the date when, in the matter complained of, such services terminated, except that the court may extend the time for commencing an action, either before or after the time so limited, on such terms as it considers proper, where it is satisfied that there are *prima facie* grounds for relief and that no substantial prejudice or hardship will result to any person affected by reason of the delay.

Limitation  
for commence-  
ing actions

18.—(1) Any person who makes or causes to be made any wilful falsification in any matter relating to a register or issues a false certificate or document with respect to registration is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000.

Falsification  
of certificates

(2) Any person who wilfully procures or attempts to procure himself to be registered under this Act by knowingly making any false representation or declaration or by making a fraudulent representation or declaration, either orally or in writing, is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 and every person knowingly aiding and assisting him therein is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000.

Offences for  
false repre-  
sentation

Onus of  
proof  
respecting  
registration

**19.** Where registration under this Act is required to permit the lawful doing of any act or thing, if in any prosecution it is proven that the accused has done such act or thing, the burden of proving that he was so registered under this Act rests upon the accused.

## PART II

### DENTISTRY

Interpre-  
tation

**20.—(1)** In this Part,

- (a) "by-laws" means the by-laws made under this Part;
- (b) "College" means the Royal College of Dental Surgeons of Ontario;
- (c) "Council" means the Council of the College;
- (d) "licence" means a licence for the practice of dentistry issued under this Part;
- (e) "member" means a member of the College;
- (f) "practice of dentistry" means any professional service usually performed by a dentist or a dental surgeon, and includes,
  - (i) the diagnosis or treatment of, and the prescribing, treating or operating for the prevention, alleviation or correction of any disease, pain, deficiency, deformity, defect, lesion, disorder or physical condition of, in or from any human tooth, jaw or adjacent structure or tissue or any injury thereto,
  - (ii) the making, producing, reproducing, constructing, fitting, furnishing, supplying, altering or repairing or prescribing or advising the use of any prosthetic denture, bridge, appliance or thing for any of the purposes indicated in subclause i, to be used in, upon or in connection with any human tooth, jaw or associated structure or tissue or in the treatment of any condition thereof, or replacing, improving or supplementing any human tooth, associated structure or tissue, and
  - (iii) the taking or making, or the giving of advice or assistance or the providing of facilities for

the taking or making of any impression, bite, cast or design preparatory to, or for the purpose of, or with a view to the making, producing, reproducing, constructing, fitting, furnishing, supplying, altering or repairing of any such prosthetic denture, bridge, appliance or thing;

(g) "Registrar" means the Registrar of the College;

(h) "regulations" means the regulations made under this Part.

(2) The practice of dentistry is a health discipline to which this Part applies.

**21.**—(1) The Royal College of Dental Surgeons of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

(2) The objects of the College are,

(a) to regulate the practice of dentistry and to govern its members in accordance with this Act, the regulations and the by-laws;

(b) to establish, maintain and develop standards of knowledge and skill among its members;

(c) to establish, maintain and develop standards of qualification and practice for the practice of dentistry;

(d) to establish, maintain and develop standards of professional ethics among its members;

(e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act,

in order that the public interest may be served and protected.

**22.**—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject.

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled, subject to the continuing jurisdiction



of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Cancellation  
for default  
of fees

(3) The Registrar may cancel a licence for non-payment of any fee prescribed by the regulations after giving the member at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Council of  
College

**23.**—(1) The Board of Directors of the College is continued as the Council of the College, which shall be the governing body and board of directors of the College and shall manage and administer its affairs.

Composition  
of Council

(2) The Council shall be composed of,

- (a) not fewer than nine and not more than twelve persons who are members elected in the number and manner determined by the regulations;
- (b) not fewer than three and not more than five persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice and are appointed by the Lieutenant Governor in Council; and
- (c) one person who is appointed by the faculty of dentistry of each university that conducts a course in dentistry and is authorized to grant degrees in dentistry, such person to be appointed from among the members of the faculty.

Remunera-  
tion of lay  
members

(3) The persons appointed under clause *b* of subsection 2 shall be paid, out of moneys appropriated therefor by the Legislature, such expenses and remuneration as is determined by the Lieutenant Governor in Council.

Expiration  
of appoint-  
ment

(4) The appointment of every person appointed under subsection 2 expires at the first meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment.

Qualifica-  
tions to  
vote

(5) Every member who,

- (a) practises in Ontario; and
- (b) is not in default of payment of the annual fee prescribed by the regulations,

is qualified to vote at an election of members of the Council.

(6) The Council shall elect a President and Vice-President from among its members. President and Vice-President

(7) The Council shall appoint during pleasure a Registrar and such other officers and servants as may from time to time be necessary in the opinion of the Council to perform the work of the College. Registrar, Treasurer, Secretary and staff

(8) A majority of the members of the Council constitute a quorum. Quorum

(9) The members of the Council who were elected under *The Dentistry Act*, being chapter 108 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause *a* of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant. Continuation of Council members under R.S.O. 1970, c. 108

**24.** In addition to his powers and duties under Part I, the Minister may, Powers of Minister

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

**25.** Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations, Regulations

- (a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;
- (b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected, and controverted elections;
- (c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
- (d) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences;

- (e) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (f) providing for the maintenance and inspection of registers of persons permitted to practise;
- (g) governing standards of practice for the profession;
- (h) prescribing the records that shall be kept respecting patients;
- (i) requiring and providing for the inspection and examination of the office, records and equipment of members in connection with their practice;
- (j) regulating the compounding, dispensing and sale of drugs by members and the containers and labelling therefor, prescribing the records that shall be kept and requiring reports to the Minister respecting such compounding, dispensing and sale;
- (k) defining classes of specialists in the various branches of dentistry, prescribing the qualifications required, providing for the suspension or revocation of any such designation, and for the regulation and prohibition of the use of terms, titles, or designations by members indicating specialization in any branch of dentistry;
- (l) authorizing persons other than members to perform specified acts in the practice of dentistry under the supervision or direction of a member;
- (m) prohibiting the practice of dentistry where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (n) defining professional misconduct for the purposes of this Part;
- (o) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect to their practices;
- (q) respecting the reporting and publication of decisions in disciplinary matters;
- (r) providing for the compilation of statistical information on the supply, distribution and pro-



professional activities of members and requiring members to provide the information necessary to compile such statistics, for any purpose that may tend to advance scientific knowledge and maintain the standards of practice of dentistry;

- (s) respecting the duties and authority of the Registrar;
- (t) requiring the payment of annual fees by members and fees for licensing, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (u) prescribing forms for the purposes of this Part and providing for their use;
- (v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

**26.**—(1) The Council may pass by-laws relating to the By-laws administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing,

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) prescribing the remuneration of the members of the Council and committees, other than persons appointed by the Lieutenant Governor in Council, and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (h) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;

- (i) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (j) providing for a code of ethics;
- (k) providing for the appointment of inspectors for the purposes of this Part;
- (l) prescribing forms and providing for their use;
- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) respecting membership of the College in any national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
- (r) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

Idem

(2) A copy of the by-laws made under subsection 1 and amendments thereto,

(a) shall be forwarded to the Minister;

(b) shall be available for public inspection in the office of the College.

Signing by-laws and resolutions

(3) Any by-law or resolution signed by all the members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for that purpose.

By-laws for list of members participating in low cost denture service

**27.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Council shall, by by-law,



- (a) provide for the preparation of a list of members participating in the low cost denture service; and
- (b) determine the members who shall be included in the list,

for the purposes of this section.

(2) A member who participates in the low cost denture service shall provide full upper and lower standard prosthetic dentures to any person other than a person with an abnormality or degenerative disease of the mouth for a cost which shall not exceed \$180 including the laboratory costs and the professional fee in respect of fitting services, and no denture of a quality higher than standard and no additional services shall be provided or charged for by the member without the specific consent of the patient.

Low cost  
denture  
service

(3) A member who participates in the low cost denture service shall display public notice of the fact in his office in a form prescribed by the Council by by-law approved by the Lieutenant Governor in Council.

Display  
of notice  
by partic-  
ipating  
members

(4) A member who is in breach of any provision of this section shall be deemed to be guilty of professional misconduct for the purposes of subsection 3 of section 37.

Enforce-  
ment

(5) The Council shall make such by-laws as it considers necessary for the purpose of promoting and encouraging participation by members in low cost denture services for the purposes of this section and for the establishment of clinics for the purpose.

By-laws

(6) The Lieutenant Governor in Council may, by regulation, fix an amount for the maximum cost of the low cost denture service other than the amount named in subsection 2.

Regu-  
lation

**28.**—(1) Where a prosthetic denture is supplied, altered or repaired by a member or under the supervision of a member as required by section 15 of *The Denture Therapists Act, 1972*, the laboratory costs incurred in respect of the supplying, altering or repairing of the prosthetic denture and all fees for services in respect thereof shall be rendered by the member and the account therefor shall show such laboratory costs separately from such fees and separately from all other charges and fees.

Billing for  
prosthetic  
dentures  
1972, c. 163

(2) No person is liable to pay an account that does not comply with the requirements of subsection 1.

Liability  
for payment

**29.**—(1) No person shall engage in or hold himself out as engaging in the practice of dentistry unless he is licensed under this Part.

Licence to  
practise

**Proof of  
practice**

(2) For the purposes of subsection 1, proof of the performance of one act in practice of dentistry on one occasion is sufficient to establish engaging in the practice of dentistry.

**Exception  
re students**

(3) Subsection 1 does not apply to a student of dentistry who practises dentistry within a prescribed training program under the supervision of a member who is physically present.

**Exception  
re denture  
therapists**

1972, c. 163

(4) Nothing done in the practice of denture therapy as defined in *The Denture Therapists Act, 1972* by a denture therapist licensed thereunder shall be deemed to be a contravention of this section.

**Conflict  
with other  
health  
discipline**

(5) A licence shall be deemed to authorize a member to engage in the practice of dentistry, notwithstanding that any part of such practice is included in the practice of any other health discipline.

**Establish-  
ment of  
committees**

**30.**—(1) The Council shall establish and appoint as hereinafter provided the following committees,

- (a) Executive Committee;
- (b) Registration Committee;
- (c) Complaints Committee;
- (d) Discipline Committee,

and may establish such other committees as the Council from time to time considers necessary.

**Vacancies**

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

**Executive  
Committee**

**31.**—(1) The Executive Committee shall be composed of the President and Vice-President of the Council and not more than three other members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

**Quorum**

(2) A majority of the members of the Executive Committee constitutes a quorum.

**Duties**

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

**32.**—(1) The Registration Committee shall be composed of three persons who are members of the Council, one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council. Registration Committee

(2) The Council shall name one member of the Registration Committee to be Chairman. Chairman

(3) A majority of the members of the Registration Committee constitutes a quorum. Quorum

**33.**—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he proposes to refuse or to which he considers terms, conditions or limitations should be attached. Issuance of licences

(2) The Registration Committee,

Powers and duties of Registration Committee

(a) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fee therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(b) may exempt an applicant from any licensing requirement.

(3) The Registration Committee may direct the Registrar to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies. Idem

(4) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study, or continuing education as the committee specifies. Review of qualifications

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to practise dentistry, identifying any specialist status and the terms, conditions and limitations attached to the licence, and shall Registers of licensees



note on the register every revocation, suspension and cancellation of a licence or recognition of specialist status and such other information as the Registration Committee or Discipline Committee directs.

Continuation  
of licences

R.S.O. 1970,  
c. 108

(6) Every licence issued under *The Dentistry Act*, being chapter 108 of the Revised Statutes of Ontario, 1970, and in effect immediately before this Part comes into force continues in the same manner as if issued under this Part.

Complaints  
Committee

**34.**—(1) The Complaints Committee shall be composed of three persons who are members of the Council, one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.

Idem

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

Chairman

(3) The Council shall name one member of the Complaints Committee to be its Chairman.

Quorum

(4) A majority of the members of the Complaints Committee constitutes a quorum.

Duties

**35.**—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless,

- (a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and
- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(2) The Committee in accordance with the information it receives may,

- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 38; or

(b) direct that the matter not be referred under clause a; or

(c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8. Decision

**36.**—(1) The Discipline Committee shall be composed of eight members of the Council of whom two shall be persons appointed to the Council by the Lieutenant Governor in Council. Discipline Committee

(2) The Council shall appoint one of the members of the Discipline Committee to be Chairman. Chairman

(3) The Chairman of the Discipline Committee may assign a panel of five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council. Composition of panels

(4) Three members of a panel assigned under subsection 3, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members presiding at the hearing. Quorum and votes

(5) Notwithstanding section 35, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member. Reference by Council or Executive Committee

**37.**—(1) The Discipline Committee shall,

Duties of  
Discipline  
Committee

(a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;

(b) hear and determine matters referred to it under section 35, 36 or 39; and

(c) perform such other duties as are assigned to it by the Council.

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall, Idem



- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

Professional  
misconduct

(3) A member may be found guilty of professional misconduct by the Committee if,

- (a) he has been found guilty of an offence relevant to his suitability to practise upon proof of such conviction;
- (b) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

Incom-  
petence

(4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice.

Powers of  
Discipline  
Committee

(5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order,

- (a) revoke the licence of the member or withdraw recognition of his specialist status, or both;
- (b) suspend the licence of the member or recognition of his specialist status, or both, for a stated period;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

(6) Where the Discipline Committee is of the opinion <sup>Costs</sup> that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes.

(7) Where the Discipline Committee revokes, suspends or <sup>Stay on appeal for incompetence</sup> restricts a licence or recognition of specialist status on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

(8) Where the Discipline Committee revokes, suspends or <sup>Stay on appeal for professional misconduct</sup> restricts the licence or recognition of specialist status of a member on a ground other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned.

(9) Where the Discipline Committee finds a member guilty <sup>Service of decision of Discipline Committee</sup> of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member.

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. <sup>Continuation on expiry of Committee membership</sup>

### 38.—(1) In this section,

<sup>Interpretation</sup>

(a) "board of inquiry" means a board of inquiry appointed by the Executive Committee under subsection 2;

(b) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise or that his practice be restricted.

(2) Where the Registrar receives information leading him <sup>Reference to board of inquiry</sup> to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to

the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

**Examination**

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his licence be suspended until he complies.

**Hearing by  
Registration  
Committee**

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and may suspend the member's licence until the determination of the question of his capacity becomes final.

**Parties**

(5) The College, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to the hearing.

**Medical  
evidence**

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

- (a) where the evidence is required by the College, at least five days before the hearing commences; and
- (b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report,

**Powers of  
Registration  
Committee**

(7) The Registration Committee shall, after the hearing,

- (a) make a finding as to whether or not the member is an incapacitated member; and



(b) where the member is found to be an incapacitated member by order,

(i) revoke his licence,

(ii) suspend his licence for such period as the Committee considers appropriate, or

(iii) attach such terms and conditions to the licence as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Procedures

39.—(1) A person whose licence has been revoked or suspended for cause under this Part, or a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but except with the consent of the Council such application shall not be made sooner than one year after the revocation or, where the suspension is for more than one year, one year after the suspension. Restoration of licence

(2) The Registrar shall refer the application to the Discipline Committee or, where the revocation or suspension was on the grounds of incapacity, to the Registration Committee which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member. Reference to Discipline Committee

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration except subsection 9 of section 11 apply, *mutatis mutandis*, to proceedings of the Registration Committee and Discipline Committee under this section. Procedures

40.—(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence, the Registrar may by order appoint one or more persons to make an investigation to ascertain whether such an act has occurred, and the person appointed shall report the result of his investigation to the Registrar. Investigation of members

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make Powers of investigator

the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation, and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. 49

Obstruction  
of  
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search  
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of  
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Admissi-  
bility  
of copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding



or prosecution as *prima facie* proof of the original book, record or document and its contents.

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or such other Committee as he considers appropriate. Report of Registrar

**41.**—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 40 and any member of the Council or a Committee, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 40 and shall not communicate any such matters to any other person except, Matters confidential

(a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations;

(b) as may be required for the enforcement of *The Health Insurance Act, 1972*; 1972, c. 91

(c) to his counsel; or

(d) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws. Testimony in civil suit

**42.**—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit. Restraining orders

(2) An appeal lies to the Supreme Court from an order made under subsection 1. Appeal

## Penalties

**43.**—(1) Every person who is in contravention of section 29 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

## Idem

(2) Every person who, not being a member, uses an occupational designation prescribed by the regulations to be used by members or a like designation is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

## Idem

(3) Any person who obstructs a person appointed to make an investigation under section 40 in the course of his duties is guilty of an offence and on summary conviction is liable to a fine not exceeding \$2,000.

## Repeals

**44.**—(1) *The Dentistry Act*, being chapter 108 of the Revised Statutes of Ontario, 1970, except section 12 thereof, and *The Dentistry Amendment Act, 1972*, being chapter 141 are repealed.

## Idem

(2) For the purposes of section 12 of *The Dentistry Act*, the Council shall be deemed to be the Board referred to therein.

## References

(3) Any reference in any Act or regulation to *The Dentistry Act* shall be deemed to be a reference to this Part.

## PART III

## MEDICINE

Interpre-  
tation

**45.**—(1) In this Part,

- (a) "by-laws" means the by-laws made under this Part;
- (b) "College" means the College of Physicians and Surgeons of Ontario;
- (c) "Council" means the Council of the College;
- (d) "licence" means a licence for the practice of medicine issued under this Part;
- (e) "member" means a member of the College;

- (f) "practice of medicine" includes the practice of surgery and obstetrics;
- (g) "prescribed" means prescribed by the regulations or by-laws made under this Part;
- (h) "Registrar" means the Registrar of the College;
- (i) "regulations" means the regulations made under this Part.

(2) The practice of medicine is a health discipline to which this Part applies. Health discipline

**46.**—(1) The College of Physicians and Surgeons of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part. College of Physicians and Surgeons continued

(2) The objects of the College are, Objects

- (a) to regulate the practice of medicine and to govern its members in accordance with this Act, the regulations and the by-laws;
- (b) to establish, maintain and develop standards of knowledge and skill among its members;
- (c) to establish, maintain and develop standards of qualification and practice for the practice of medicine;
- (d) to establish, maintain and develop standards of professional ethics among its members;
- (e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act;
- (f) such other objects relating to human health care as the Council considers desirable,

in order that the public interest may be served and protected.

**47.**—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject. Membership in the College

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member. Resignation of membership



Cancellation  
for default  
of fees

(3) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the member at least two months notice of the default and intention to cancel subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct as a member.

Council of  
the College

**48.**—(1) The Council of the College is continued and shall be the governing body and board of directors of the College and shall manage and administer its affairs.

Composition  
of Council

(2) The Council shall be composed of,

- (a) one person who is appointed by the faculty of medicine of each university in Ontario that conducts a course in medicine and is authorized to grant degrees in medicine, such person to be appointed from among the members of the faculty;
- (b) not fewer than four and not more than six persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice, and are appointed by the Lieutenant Governor in Council; and
- (c) not fewer than twelve and not more than sixteen persons who are members and are elected by the members in the manner provided by the regulations.

Remuner-  
ation  
of lay  
members

(3) The persons appointed under clause *b* of subsection 2 shall be paid out of moneys appropriated therefor by the Legislature such expenses and remuneration as is determined by the Lieutenant Governor in Council.

Expiration  
of appoint-  
ment

(4) The appointment of every person appointed under subsection 2 expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment.

Qualifi-  
cations  
to vote

(5) Every member who is,

- (a) resident in Ontario;
- (b) licensed to practise medicine and not limited to practising for educational purposes only; and
- (c) not in default of payment of the prescribed annual fee,

is qualified to vote at an election of members of the Council.

(6) The Council shall elect annually a President and Vice-President from among its members. President  
Vice-  
President

(7) The Council shall appoint during pleasure a Registrar and such other officers and servants as may from time to time be necessary or desirable in the opinion of the Council to perform the work of the College. Registrar  
and  
officers

(8) A majority of the members of the Council constitutes a quorum. Quorum

(9) The members of the Council who were elected under *The Medical Act*, being chapter 268 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause *a* of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant. Con-  
tinuation  
of Council  
members  
under  
R.S.O. 1970,  
c. 268

**49.** In addition to his powers and duties under Part I, the Minister may, Powers of  
Minister

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

**50.** Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations, Regu-  
lations

- (a) fixing the number of members to be elected to the Council and establishing electoral districts for elections;
- (b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected to the Council, and controverted elections;
- (c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;



- (d) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences;
- (e) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (f) providing for the maintenance and inspection of registers of persons permitted to practise and for the issuance of certificates of standing by the Registrar;
- (g) governing standards of practice for the profession;
- (h) defining classes of specialists in the various branches of medicine, prescribing the qualifications required, providing for the suspension or revocation of any such designation, and for the regulation and prohibition of the use of terms, titles, or designations by members indicating specialization in any branch of medicine;
- (i) regulating the compounding, dispensing and sale of drugs by members and the containers and labelling therefor, prescribing the records that shall be kept and requiring reports to the Minister respecting such compounding, dispensing and sale;
- (j) governing the designation of life members of the College and prescribing their rights and privileges;
- (k) authorizing persons other than members to perform specified acts in the practice of medicine under the supervision or direction of a member;
- (l) prohibiting the practice of medicine where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (m) defining professional misconduct for the purposes of this Part;
- (n) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (o) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;

- (p) prescribing the minimum number of members who may constitute a clinic and the minimum range of medical services that shall be provided in a clinic;
- (q) respecting the reporting and publication of decisions in disciplinary matters;
- (r) requiring and providing for the inspection and examination of books, accounts, reports and medical records of members in connection with their practice;
- (s) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (t) respecting the duties and authority of the Registrar;
- (u) requiring the payment of fees by members and fees for licensing, examinations and continuing education, including penalties for late payment and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (v) prescribing forms and providing for their use;
- (w) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

**51.**—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing, By-laws

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;

- (g) respecting the calling, holding and conducting of meetings of the membership of the College;
- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) prescribing forms and providing for their use;
- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) providing for the establishment, maintenance and administration of a benevolent fund for needy practitioners in Ontario and the dependants of deceased members;
- (r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;



- (s) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

(2) A copy of the by-laws made under subsection 1 and <sup>Idem</sup> amendments thereto,

- (a) shall be forwarded to the Minister;
- (b) shall be forwarded to each member; and
- (c) shall be available for public inspection in the office of the College.

(3) Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose. <sup>Signing by-law and resolutions</sup>

**52.**—(1) No person shall engage in or hold himself out as engaging in the practice of medicine unless he is licensed under this Part. <sup>Licence to practise</sup>

(2) For the purposes of subsection 1, <sup>Exceptions</sup>

- (a) rendering first aid or temporary assistance in an emergency without fee; or
- (b) the administration of household remedies by members of the patient's household,

shall be deemed not to be engaging in the practice of medicine.

(3) For the purposes of this section, proof of the performance of one act in practice of medicine on one occasion is sufficient to establish engaging in the practice of medicine. <sup>Proof of practice</sup>

(4) A licence shall be deemed to authorize a member or person authorized by the regulations to engage in the practice of medicine, notwithstanding that any part of such practice is included in the practice of any other health discipline. <sup>Conflict with other health discipline</sup>

**53.**—(1) The Council shall establish and appoint as herein-after provided the following committees, <sup>Establishment of committees</sup>

- (a) Executive Committee;
- (b) Registration Committee;
- (c) Complaints Committee;

(d) Discipline Committee;

(e) Fitness to Practise Committee,

and may establish such other committees as the Council from time to time considers necessary.

Medical  
Review  
Committee  
1972, c. 91

(2) The Council may give the Medical Review Committee established under *The Health Insurance Act, 1972*, such other duties as the Council considers appropriate and that are not inconsistent with its duties under that Act.

Vacancies

(3) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

Executive  
Committee

**54.**—(1) The Executive Committee shall be composed of,

(a) the President, who shall be Chairman of the Committee;

(b) the Vice-President; and

(c) three persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Quorum

(2) A majority of the members of the Executive Committee constitutes a quorum.

Duties

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

Regist-  
ration  
Committee

**55.**—(1) The Registration Committee shall be composed of,

(a) one member of the Council who was appointed to the Council by a university;

(b) two members of the Council who were elected to the Council;

(c) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council; and

(d) the President and Vice-President, *ex officio*.



(2) The Council shall name one member of the Registration <sup>Chairman</sup> Committee to be Chairman.

(3) A majority of the members of the Registration Com- <sup>Quorum</sup> mittee constitutes a quorum.

**56.**—(1) The Registrar shall issue a licence to any <sup>Issuance of licences</sup> applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

(2) The Registration Committee, <sup>Powers and duties of Registration Committee</sup>

(a) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(b) may exempt an applicant from any licensing requirement

(3) The Registration Committee may direct the Registrar <sup>Idem</sup> to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies.

(4) The Registration Committee may review the qualifica- <sup>Review of qualifications</sup> tions of any member and may impose a further term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

(5) The Registrar shall maintain one or more registers in <sup>Registers of licensees</sup> which is entered every person who is licensed to practise medicine, identifying any specialist status and the terms, conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation of a licence or recognition of specialist status and such other information as the Registration Committee or Discipline Committee directs.

(6) Every licence issued under *The Medical Act*, being <sup>Continuation of licences R.S.O. 1970, c. 268</sup> chapter 268 of the Revised Statutes of Ontario, 1970 and in effect immediately before this Part comes into force continues in the same manner as if issued under this Part.

**57.**—(1) The Complaints Committee shall be composed of, <sup>Complaints Committee</sup>

(a) two persons who are members of the College;

(b) one member of the Council who was appointed to the Council by a university;

(c) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

**Idem** (2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

**Chairman** (3) The Council shall name one member of the Complaints Committee to be its Chairman.

**Quorum** (4) A majority of the members of the Complaints Committee constitutes a quorum.

**Duties** **58.**—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless,

(a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

**Idem** (2) The Committee in accordance with the information it receives may,

(a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 62; or

(b) direct that the matter not be referred under clause a; or

(c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.

**Decision** (3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8.

**Discipline Committee** **59.**—(1) The Discipline Committee shall be composed of ten members of the Council of whom two shall be persons appointed to the Council by the Lieutenant Governor in Council.

(2) The Council shall appoint one of the members of the <sup>Chairman</sup> Discipline Committee to be Chairman.

(3) The Chairman of the Discipline Committee may assign <sup>Composition of panels</sup> a panel of five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

(4) Three members of a panel assigned under subsection 3, <sup>Quorum and votes</sup> of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members presiding at the hearing, but in the event of a tie vote the chairman shall have a second or casting vote.

(5) Notwithstanding section 58, the Council or the Executive <sup>Reference by Council of Executive Committee</sup> Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member.

**60.—**(1) The Discipline Committee shall,

<sup>Duties of Discipline Committee</sup>

- (a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;
- (b) hear and determine matters referred to it under section 58, 59 or 63; and
- (c) perform such other duties as are assigned to it by the Council.

(2) In the case of hearings into allegations of professional <sup>idem</sup> misconduct or incompetence, the Discipline Committee shall,

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

(3) A member may be found guilty of professional mis- <sup>Profes- sional misconduct</sup> conduct by the Committee if,



- (a) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;

R.S.C. 1970,  
cc. N-1,  
F-27

- (b) if his rights or privileges under the *Narcotic Control Act* (Canada) or the *Food and Drugs Act* (Canada) or the regulations under either of them have been restricted or withdrawn, unless by his own request, upon proof thereof;

- (c) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

In-  
competence

- (4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice.

Powers of  
Discipline  
Committee

- (5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order,

- (a) revoke the licence of the member, or withdraw recognition of his specialist status, or both;
- (b) suspend the licence of the member or recognition of his specialist status, or both, for a stated period;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

Costs

- (6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes.

(7) Where the Discipline Committee revokes, suspends or restricts a licence or recognition of specialist status on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Stay on appeal for incompetence

(8) Where the Discipline Committee revokes, suspends or restricts the licence or recognition of specialist status of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned. Stay on appeal for professional misconduct

(9) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member. Service of decision of Discipline Committee

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. Continuation on expiry of Committee membership

**61.—**(1) The Fitness to Practise Committee shall be composed of twelve persons, of whom at least four shall be members of the Council and eight may be members of the College who are not members of the Council. Fitness to Practise Committee

(2) The Council shall appoint one of the members of the Fitness to Practise Committee who is a member of the Council to be chairman of the Committee. Chairman

(3) The chairman of the Fitness to Practise Committee may assign a panel of three members to hold a hearing, of whom at least one shall be a member who is a member of the Council, and such panel constitutes a quorum of the Committee for a hearing. Composition of panels and quorum

(4) All decisions of the Fitness to Practise Committee require the vote of a majority of the members presiding at the hearing. Votes

**62.—**(1) In this section,

Interpretation

(a) "board of inquiry" means a board of inquiry appointed by the Executive Committee under subsection 2;



- (b) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise or that his practice be restricted.

Reference  
to board of  
inquiry

(2) Where the Registrar receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Examination

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his licence be suspended until he complies.

Hearing by  
Fitness to  
Practise  
Committee

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Fitness to Practise Committee to hold a hearing and may suspend the member's licence until the determination of the question of his capacity becomes final.

Parties

(5) The College, the person whose capacity is being investigated and any other person specified by the Fitness to Practise Committee are parties to the hearing.

Medical  
evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

- (a) where the evidence is required by the College, at least five days before the hearing commences; and
- (b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

(7) The Fitness to Practise Committee shall, after the hearing, Powers of  
Fitness to  
Practise  
Committee

- (a) make a finding as to whether or not the member is an incapacitated member; and
- (b) where the member is found to be an incapacitated member, by order,
  - (i) revoke his licence,
  - (ii) suspend his licence for such period as the Committee considers appropriate, or
  - (iii) attach such terms and conditions to the licence as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Fitness to Practise Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Procedures

63.—(1) A person whose licence has been revoked or suspended for cause under this Part, or under a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or, where the suspension is for a period of more than one year, one year after the suspension. Restoration  
of licence

(2) The Registrar shall refer the application to the Discipline Committee, or, when the revocation or suspension was on the grounds of incapacity, to the Fitness to Practise Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member. Reference to  
Discipline  
Committee

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except Procedures

subsection 9 of section 11, apply, *mutatis mutandis*, to proceedings of the Fitness to Practise Committee and Discipline Committee under this section.

Direction  
by Council  
to issue  
licence

(4) Notwithstanding subsections 1, 2 and 3, the Council or the Executive Committee may direct at any time that a licence be issued to a person whose licence has previously been revoked for cause or a suspension for cause be removed, subject to such terms, conditions or limitations as the Council or Executive Committee, as the case may be, considers appropriate.

Investiga-  
tion of  
members

**64.**—(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence the Registrar may, with the approval of the Executive Committee, by order appoint one or more persons to make an investigation to ascertain whether such act has occurred, and the person appointed shall report the result of his investigation to the Registrar.

Powers of  
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. 49

Obstruction  
of  
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search  
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investiga-



tion, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated. <sup>Removal of books, etc.</sup>

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents. <sup>Admissibility of copies</sup>

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or to such other committee as he considers appropriate. <sup>Report of Registrar</sup>

**65.**—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 64, and any member of the Council or a Committee, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 64 and shall not communicate any such matters to any other person except, <sup>Matters confidential</sup>

(a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations; or

(b) as may be required for the enforcement of *The Health Insurance Act, 1972*; <sup>1972, c. 91</sup>

(c) to his counsel; or

(d) with the consent of the person to whom the information relates.

**Testimony  
in civil  
suit**

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws.

**Restraining  
orders**

**66.**—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

**Appeal**

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

**Penalties**

**67.**—(1) Every person who is in contravention of section 52 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

**Idem**

(2) Every person who not being a member uses an occupational designation prescribed by the regulations to be used by members or a like designation is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

**Idem**

(3) Any person who obstructs a person appointed to make an investigation under section 64 in the course of his duties is guilty of an offence and on summary conviction is liable to a fine not exceeding \$2,000.

**Repeals**

**68.**—(1) *The Medical Act*, being chapter 268 of the Revised Statutes of Ontario, 1970, and *The Medical Amendment Act, 1973*, being chapter 129, are repealed.

**References**

(2) Any reference in any Act or regulation to *The Medical Act* shall be deemed to be a reference to this Part.



## PART IV

## NURSING

**69.—(1) In this Part,**Interpre-  
tation

- (a) "by-laws" means the by-laws made under this Part;
- (b) "certificate" means a current certificate issued under this Part authorizing the holder to hold himself out as competent to practise as a registered nurse or registered nursing assistant;
- (c) "College" means the College of Nurses of Ontario;
- (d) "Council" means the Council of the College;
- (e) "Director" means the Director of the College;
- (f) "member" means a member of the College;
- (g) "register" means a register maintained by the Director under this Part, and "registered" and "registration" have corresponding meanings;
- (h) "registered nurse" and "registered nursing assistant" means a person who is the holder of a certificate as a registered nurse or registered nursing assistant, respectively;
- (i) "regulations" means the regulations made under this Part.

(2) The performance of nursing services by a registered nurse or a registered nursing assistant is a health discipline to which this Part applies.

Health  
discipline

**70.—(1)** The College of Nurses of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

College of  
Nurses of  
Ontario  
continued

(2) The objects of the College are,

Objects

- (a) to regulate the practice of nursing and to govern its members in accordance with this Act, the regulations and the by-laws;
- (b) to establish, maintain and develop standards of knowledge and skill among its members;

- (c) to establish, maintain and develop standards of qualification and practice for the practice of nursing;
- (d) to establish, maintain and develop standards of professional ethics among its members;
- (e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act;
- (f) such other objects relating to human health care as the Council considers desirable,

in order that the public interest may be served and protected.

Membership  
in the  
College

**71.**—(1) Every person who is the holder of a certificate is a member of the College subject to any term, condition or limitation to which his certificate is subject.

Resignation  
of member-  
ship

(2) A member may resign his membership by filing with the Director his resignation in writing and his certificate is thereupon cancelled, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Cancellation  
for default  
of fees

(3) The Director may cancel a certificate for non-payment of any prescribed fee after giving the member at least one month's notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Council of  
the College

**72.**—(1) The Council of the College is continued and shall be the governing body and board of directors of the College and shall manage and administer its affairs.

Composition  
of Council

(2) The Council shall be composed of,

- (a) not fewer than eighteen and not more than twenty-five persons, consisting of registered nurses and registered nursing assistants in the proportions determined by the regulations, who are resident or employed in Ontario and are elected by the members in the manner provided by the regulations; and
- (b) not fewer than six and not more than eight persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice, and who are appointed by the Lieutenant Governor in Council.

Remunera-  
tion of lay  
appointees

(3) The persons appointed under clause *b* of subsection 2 shall be paid out of moneys appropriated therefor by the Legislature such expenses and remuneration as is determined by the Lieutenant Governor in Council.

(4) The appointment of every person appointed under subsection 2 expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment.

Expiration  
of appoint-  
ment

(5) Every member who is,

Qualifica-  
tions to  
vote

(a) resident or employed in Ontario; and

(b) not in default of payment of the annual fee prescribed by the regulations,

is qualified to vote at an election of members of the Council.

(6) The Council shall elect annually a President and Vice-President from among its members.

President  
and Vice-  
President

(7) The Council shall appoint during pleasure a Director and such other officers as may from time to time be necessary in the opinion of the Council to perform the work of the College and the Director shall be deemed to be the Registrar for the purposes of Part I.

Director  
and staff

(8) The Council shall meet at least twice a year.

Meetings  
of Council

(9) A majority of the members of the Council constitutes a quorum.

Quorum

(10) The members of the Council who were elected under *The Nurses Act*, being chapter 301 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause a of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant.

Continuation  
of Council  
members  
under  
R.S.O. 1970,  
c. 301

**73.** In addition to his powers and duties under Part I, the Minister may,

Powers of  
Minister

(a) review the activities of the Council;

(b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;

(c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.



## Regulations

**74.** Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

- (a) fixing the number of members to be elected to the Council, the proportions thereof who shall be registered nurses and registered nursing assistants and establishing the regional and other representation for elections;
- (b) respecting and governing the nomination, election and term of office of the members to be elected to the Council, the filling of vacancies on the Council and controverted elections;
- (c) respecting any matter ancillary to the provisions of this Part with regard to the issuing, renewal, suspension and revocation of certificates;
- (d) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;
- (e) providing for the maintenance and inspection of registers;
- (f) governing standards of practice for the profession;
- (g) prohibiting the practice of nursing by members where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (h) defining professional misconduct for the purposes of this Part;
- (i) providing for a program for the continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (j) respecting the reporting and publication of decisions in disciplinary matters;
- (k) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (l) respecting the duties and authority of the Director;
- (m) requiring the payment of annual fees by members and fees for certification and examinations, and prescribing the amounts thereof;

- (n) prescribing forms and providing for their use;
- (o) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

**75.**—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing.

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) respecting the calling, holding and conducting of meetings of the membership of the College;
- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) prescribing forms and providing for their use;



- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
- (r) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

Distribution  
of by-laws

- (2) A copy of the by-laws made under subsection 1 and amendments thereto,
- (a) shall be forwarded to the Minister;
  - (b) shall be forwarded to each member; and
  - (c) shall be available for public inspection in the office of the College.

Use of  
titles

**76.**—(1) No person shall hold himself out as competent to practise as a registered nurse or as a registered nursing assistant or otherwise as the holder of a certificate under this Part unless such person is the holder of the appropriate certificate under this Part.

Idem.

(2) No person shall use the title "registered nurse" or the designation "Reg.N." or "R.N." or other designation representing the title unless such person is the holder of a certificate as a registered nurse under this Part.

Idem

(3) No person shall use the title "registered nursing assistant" or the designation "R.N.A." or other designation representing the title unless such person is the holder of a certificate as a registered nursing assistant under this Part.

Establish-  
ment of  
committees

**77.**—(1) The Council shall establish and appoint as herein-after provided the following committees,

- (a) Executive Committee;
- (b) Registration Committee;

(c) Complaints Committee;

(d) Discipline Committee,

and the appointments thereto shall include representation of both registered nurses and registered nursing assistants.

(2) The Council may establish such other committees as the <sup>Other Committees</sup> Council from time to time considers necessary.

(3) Where one or more vacancies occur in the membership <sup>Vacancies</sup> of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

**78.**—(1) The Executive Committee shall be composed of, <sup>Executive Committee</sup>

(a) the President, who shall be chairman of the Committee;

(b) the Vice-President; and

(c) three persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) The Executive Committee shall perform such functions <sup>Duties</sup> of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

(3) A majority of the members of the Executive Committee <sup>Quorum</sup> constitutes a quorum.

**79.**—(1) The Registration Committee shall be composed <sup>Registration Committee</sup> of nine persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) The Council shall name one member of the Registration <sup>Chairman</sup> Committee to be Chairman.

(3) A majority of the members of the Registration Com- <sup>Quorum</sup> mittee constitutes a quorum.

(4) The Registration Committee shall submit an annual <sup>Reports</sup> report of its activities to the Council and may make such other reports to the Council and Executive Committee as it considers appropriate.

**Issuance of  
certificates**

**80.**—(1) The Director shall issue a certificate or renewal thereof to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Director shall refer to the Registration Committee every application for a certificate or renewal thereof that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

**Powers and  
duties of  
Registration  
Committee**

(2) The Registration Committee,

(a) shall determine the eligibility of applicants for certificates or renewals thereof and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(b) may exempt an applicant from any requirement for certification.

**Conditions of  
certificates**

(3) The Registration Committee may direct the Director to issue or refuse to issue certificates and renewals or to issue certificates and renewals subject to such terms, conditions and limitations as the Committee specifies.

**Refusal  
to renew**

(4) For the purposes of Part I, a refusal to renew a certificate shall be deemed to be a refusal to grant the certificate.

**Review of  
qualifi-  
cations**

(5) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on his certificate pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

**Registers**

(6) The Director shall maintain one or more registers in which is entered every person to whom a certificate has been issued identifying the terms, conditions and limitations attached to the certificate or the registration and every revocation, suspension, cancellation and expiration or other termination and every renewal of the certificate and such other information as the Registration Committee or Discipline Committee directs.

**Continuance  
of registra-  
tion under  
R.S.O. 1970,  
c. 301**

(7) Every person who was registered as a registered nurse or a registered nursing assistant under *The Nurses Act* being chapter 301 of the Revised Statutes of Ontario, 1970, immediately before this Part comes into force shall be deemed to be the holder of a certificate under this Part until it expires or is revoked, suspended or cancelled under this Part.

**Complaints  
Committee**

**81.**—(1) The Complaints Committee shall be composed of five persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.



(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee. Membership  
in other  
Committees

(3) The Council shall name one member of the Complaints Committee to be its Chairman. Chairman

(4) Three members of the Complaints Committee constitute a quorum. Quorum

**82.**—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless, Duties

(a) a written complaint has been filed with the Director and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

(2) The Committee in accordance with the information it receives may, Idem

(a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 85; or

(b) direct that the matter not be referred under clause a; or

(c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Director for the purposes of section 8. Decision

**83.**—(1) The Discipline Committee shall be composed of ten persons who are members of the Council, of whom two shall be persons appointed to the Council by the Lieutenant Governor in Council. Discipline  
Committee

(2) Five or more members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum, and all disciplinary decisions require the vote of a majority of the members present at the meeting. Quorum  
and votes

**Chairman**

(3) The Council shall name one member of the Discipline Committee to be its chairman.

**Reference by  
Council or  
Executive  
Committee**

(4) Notwithstanding section 82, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member.

**Duties of  
Discipline  
Committee**

**84.**—(1) The Discipline Committee shall,

- (a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;
- (b) hear and determine matters referred to it under section 82, 83 or 86; and
- (c) perform such other duties as are assigned to it by the Council.

**Idem**

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall,

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

**Professional  
misconduct**

(3) A member may be found guilty of professional misconduct by the Committee if,

- (a) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;
- (b) he is in contravention of subsection 1 of section 76; or
- (c) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.



(4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice. Incompetence

(5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order, Powers of Discipline Committee

- (a) revoke the certificate of the member;
- (b) suspend the certificate of the member for a stated period;
- (c) impose such restrictions on the certificate of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes. Costs

(7) Where a certificate is suspended or restricted for a period under subsection 5, the suspension or restriction applies in respect of any renewal or right to renewal of the certificate for the duration of the period. Expiration of suspended or restricted certificate

(8) Where the Discipline Committee revokes, suspends or restricts a certificate on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Stay on appeal for incompetence

(9) Where the Discipline Committee revokes, suspends or restricts the certificate of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned. Stay on appeal for professional misconduct

(10) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member. Service of decision of Discipline Committee

Continuation  
on expiry of  
Committee  
membership

(11) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

Interpre-  
tation

**85.**—(1) In this section,

- (a) “board of inquiry” means a board of inquiry appointed by the Executive Committee under subsection 2;
- (b) “incapacitated member” means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise or that his practice be restricted.

Reference  
to board of  
inquiry

(2) Where the Director receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Examination

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his certificate be suspended until he complies.

Hearing by  
Registration  
Committee

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and may suspend the member's certificate until the determination of the question of his capacity becomes final.

Parties

(5) The board of inquiry, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to the hearing.

Medical  
evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but,



when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

- (a) where the evidence is required by the College, at least five days before the hearing commences; and
- (b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

(7) The Registration Committee shall, after the hearing,

Powers of  
Registration  
Committee

- (a) make a finding as to whether or not the member is an incapacitated member; and
- (b) where the member is found to be an incapacitated member, by order,
  - (i) revoke his certificate,
  - (ii) suspend his certificate for such period as the Committee considers appropriate, or
  - (iii) attach such terms and conditions to the certificate as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Procedures

**86.**—(1) A person whose certificate has been revoked or suspended for cause under this Part, or registration has been suspended or cancelled for cause under a predecessor of this Part, may apply in writing to the Director for the issuance of a certificate or removal of the suspension, but such application shall not be made sooner than one year after the revocation or cancellation, or where the suspension is for more than one year, one year after the suspension.

Restoration  
of regis-  
tration or  
certificate

(2) The Director shall refer the application to the Discipline Committee, or where the revocation or suspension was on the grounds of incapacity, to the Registration Committee, which

Reference to  
Discipline  
Committee

shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member.

#### Procedures

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 9 of section 11, apply, *mutatis mutandis*, to proceedings of the Registration Committee and Discipline Committee under this section.

#### Duties of employers of registered nurses

**87.** Every person, other than a patient, who employs a person as a registered nurse or registered nursing assistant and every agency or registry that procures employment for a person as a registered nurse or registered nursing assistant,

- (a) shall ensure that such person is the holder of an appropriate certificate under this Part; and
- (b) shall report to the College any termination of such employment for reasons purporting to constitute professional misconduct, incompetence or incapacity.

#### Restraining orders

**88.**—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

#### Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

#### Penalties

**89.**—(1) Every person who is in contravention of section 76 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

#### Idem

(2) Every person who is in contravention of section 87 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

#### Repeals

**90.**—(1) *The Nurses Act*, being chapter 301 of the Revised Statutes of Ontario, 1970 and *The Nurses Amendment Act*, 1973, being chapter 30, are repealed.

#### References

(2) Any reference in any Act or regulation to *The Nurses Act* shall be deemed to be a reference to this Part.

## PART V

## OPTOMETRY

**91.**—(1) In this Part,Interpre-  
tation

- (a) "by-laws" means the by-laws made under this Part;
- (b) "College" means the College of Optometrists of Ontario;
- (c) "Council" means the Council of the College;
- (d) "licence" means a licence for the practice of optometry issued under this Part;
- (e) "member" means a member of the College;
- (f) "practice of optometry" means the services usually performed by an optometrist, including the measurement and assessment of vision, other than by the use of drugs, except such drugs for such purposes as are prescribed by the regulations, the prescribing and dispensing of ophthalmic appliances, and prescribing and providing orthoptics for the relief or correction of any visual or muscular error or defect of the eye;
- (g) "Registrar" means the Registrar of the College;
- (h) "regulations" means the regulations made under this Part.

(2) The practice of optometry is a health discipline to which this Part applies.

Health  
discipline

**92.**—(1) The College of Optometrists of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

College of  
Optometrists  
of Ontario  
continued

(2) The objects of the College are,

Objects

- (a) to regulate the practice of optometry and to govern its members in accordance with this Act, the regulations and the by-laws;
- (b) to establish, maintain and develop standards of knowledge and skill among its members;
- (c) to establish, maintain and develop standards of qualification and practice for the practice of optometry;



- (d) to establish, maintain and develop standards of professional ethics among its members;
- (e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act,

in order that the public interest may be served and protected.

Membership  
in the  
College

**93.**—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject.

Resignation of  
membership

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Cancellation  
for default  
of fees

(3) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the member at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Council of  
the College

**94.**—(1) The Board of Directors of the College is continued as the Council of the College which shall be the governing body and board of directors of the College and shall manage and administer its affairs.

Composition  
of Council

(2) The Council shall be composed of,

- (a) one person who is appointed by the University of Waterloo from the faculty of the School of Optometry;
- (b) two persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice and are appointed by the Lieutenant Governor in Council; and
- (c) five persons who are members and are elected by the members in the manner provided by the regulations.

Remuneration  
of lay  
appointees

(3) The persons appointed under clause *b* of subsection 2 shall be paid out of moneys appropriated therefor by the Legislature such expenses and remuneration as is determined by the Lieutenant Governor in Council.

(4) The appointment of every person appointed under subsection 2 shall be for a term not exceeding three years, and a person whose appointment expires is eligible for re-appointment.

Expiration of  
appointment

(5) Every member who is,

Qualifications  
to vote

(a) resident in Ontario; and

(b) not in default of payment of the annual fee prescribed by the regulations,

is qualified to vote at an election of members of the Council.

(6) The Council shall elect annually a President and Vice-President from among its members.

President  
and Vice-  
President

(7) The Council shall appoint during pleasure a Registrar, Treasurer, Secretary and such other officers and servants as may from time to time be necessary in the opinion of the Council to perform the work of the College.

Registrar,  
Treasurer,  
Secretary  
and staff

(8) A majority of the members of the Council constitutes a quorum.

Quorum

(9) The members of the Council who were elected under *The Optometry Act*, being chapter 335 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause a of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant.

Continuation  
of Council  
members  
under  
R.S.O. 1970,  
c. 335

**95.** In addition to his powers and duties under Part I, the Minister may,

Powers of  
Minister

(a) review the activities of the Council;

(b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;

(c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

**96.** Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

Regulations

- (a) establishing electoral districts for the purposes of the election of members to the Council and respecting and governing the qualifications, nomination, election and term of office of the members to be elected, and controverted elections;
- (b) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
- (c) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences;
- (d) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (e) providing for the maintenance and inspection of registers of persons permitted to practise;
- (f) governing standards of practice for the profession;
- (g) prescribing drugs that may be used in the practice of optometry for such purposes as are specified;
- (h) providing for the designation of life members of the College and prescribing their rights and privileges;
- (i) authorizing persons other than members to perform specified acts in the practice of optometry under the supervision or direction of a member;
- (j) prohibiting the practice of optometry where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (k) defining professional misconduct for the purposes of this Part;
- (l) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (m) providing for the establishment and operation of an appraisal committee for the purposes of examining and assessing the standard of practice in the profession and reporting thereon to the Council and examining and assessing the standards of practice, qualifications and continuing education of members and making recommendations to the Registration Committee thereon;



- (n) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
- (o) respecting the reporting and publication of decisions in disciplinary matters;
- (p) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (q) respecting the duties and authority of the Registrar;
- (r) requiring and providing for the inspection and examination of the office, records and equipment of members in connection with their practice;
- (s) prescribing the records that shall be kept respecting patients;
- (t) requiring the payment of annual fees by members and fees for licensing, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (u) prescribing forms and providing for their use;
- (v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

**97.**---(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing, By-laws

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;

- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) respecting the calling, holding and conducting of meetings of the membership of the College;
- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) prescribing forms and providing for their use;
- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;



(r) providing for the appointment of inspectors for the purposes of this Part;

(s) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

(2) A by-law is effective when it is passed by the Council but expires with the close of the next annual meeting of members of the College held after its passing, unless it is confirmed by the meeting. Confirmation of by-laws

(3) A copy of the by-laws made under subsection 1 and amendments thereto, Distribution of by-laws

(a) shall be forwarded to the Minister;

(b) shall be forwarded to each member; and

(c) shall be available for public inspection in the office of the College.

**98.**—(1) No person shall engage in or hold himself out as engaging in the practice of optometry unless he is licensed under this Part. Licence to practise

(2) Subsection 1 does not apply to, Exceptions

(a) a student enrolled in the School of Optometry at the University of Waterloo who practices optometry as required by the curriculum under the supervision of a member of the faculty or a member of the College;

(b) an applicant for a licence under this Part who practises optometry under the personal supervision of a member of the College for the purpose of completing qualifying studies or clinical experience required under this Part.

(3) For the purposes of subsection 1, proof of the performance of one act in the practice of optometry on one occasion is sufficient to establish engaging in the practice of optometry. Proof of practice

(4) A licence shall be deemed to authorize a member to engage in the practice of optometry, notwithstanding that any part of such practice is included in the practice of any other health discipline. Conflict with other health discipline

**99.** No member shall use drugs in his practice, except such drugs for such purposes as are prescribed by the regulations. Use of certain drugs prohibited

Establish-  
ment of  
committees

**100.**—(1) The Council shall establish and appoint as hereinafter provided the following committees,

- (a) Executive Committee;
- (b) Registration Committee;
- (c) Complaints Committee;
- (d) Discipline Committee,

and may establish such other committees as the Council from time to time considers necessary.

Vacancies

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

Executive  
Committee

**101.**—(1) The Executive Committee shall be composed of three persons who are members of the Council of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Quorum

(2) Two members of the Executive Committee constitute a quorum.

Duties

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

Registration  
Committee

**102.**—(1) The Registration Committee shall be composed of,

- (a) two members of the Council of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council; and
- (b) two members of the College of whom one shall be a member of the faculty of the School of Optometry of the University of Waterloo.

Chairman

(2) The Council shall name one member of the Registration Committee to be chairman.

Quorum

(3) A majority of the members of the Registration Committee constitutes a quorum.

Issuance of  
licences

**103.**—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Part and the regula-

tions and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

(2) The Registration Committee,

Powers and  
duties of  
Registration  
Committee

- (a) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

- (b) may exempt an applicant from any licensing requirement.

(3) The Registration Committee may direct the Registrar <sup>Idem</sup> to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies.

(4) The Registration Committee may review the qualifications of any member and may impose a term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies. <sup>Review of qualifications</sup>

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to practise optometry, identifying the terms, conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation of a licence and such other information as the Registration Committee or Discipline Committee directs. <sup>Registers of licensees</sup>

(6) Every person who was registered as an optometrist under *The Optometry Act*, being chapter 335 of the Revised Statutes of Ontario, 1970, immediately before this Part comes into force shall be deemed to be the holder of a licence under this Part for the unexpired portion of the term of the registration, unless sooner revoked, suspended or cancelled under this Part. <sup>Continuance of registration under R.S.O. 1970, c. 336</sup>

**104.—**(1) The Complaints Committee shall be composed of, <sup>Complaints Committee</sup>

- (a) three persons who are members of the College;

- (b) two persons who are members of the Council one of whom was appointed to the Council by the Lieutenant Governor in Council.



- Idem** (2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.
- Chairman** (3) The Council shall name one member of the Complaints Committee to be its Chairman.
- Quorum** (4) Three members of the Complaints Committee constitute a quorum.
- Duties** **105.**—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless,
- (a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and
  - (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.
- Idem** (2) The Committee in accordance with the information it receives may,
- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 108; or
  - (b) direct that the matter not be referred under clause a; or
  - (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.
- Decision** (3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8.
- Discipline Committee** **106.**—(1) The Discipline Committee shall be composed of,
- (a) three persons who are members of the College;
  - (b) two persons who are members of the Council, one of whom was appointed to the Council by the Lieutenant Governor in Council.
- Quorum and votes** (2) Three or more members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum, and

all disciplinary decisions require the vote of a majority of the members present at the meeting.

(3) The Council shall name one member of the Discipline Committee to be its chairman. Chairman

(4) Notwithstanding section 105, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member. Reference by Council or Executive Committee

**107.**—(1) The Discipline Committee shall, Duties of Discipline Committee

- (a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;
- (b) hear and determine matters referred to it under sections 105, 106 or 109; and
- (c) perform such other duties as are assigned to it by the Council.

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall, Idem

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

(3) A member may be found guilty of professional misconduct by the Committee if, Professional misconduct

- (a) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;
- (b) he is in contravention of section 99; or
- (c) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.



**Incompetence** (4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice.

**Powers of Discipline Committee** (5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order,

- (a) revoke the licence of the member;
- (b) suspend the licence of the member for a stated period;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

**Costs** (6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes.

**Stay on appeal for incompetence** (7) Where the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

**Stay on appeal for professional misconduct** (8) Where the Discipline Committee revokes, suspends or restricts the licence of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned.

**Service of decision of Discipline Committee** (9) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member.

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

Continuation  
on expiry of  
Committee  
membership

108.—(1) In this section,

Interpre-  
tation

- (a) "board of inquiry" means a board of inquiry appointed by the Executive Committee under subsection 2;
- (b) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise or that his practice be restricted.

(2) Where the Registrar receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Reference  
to board of  
inquiry

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his licence be suspended until he complies.

Examination

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and may suspend the member's licence until the determination of the question of his capacity becomes final.

Hearing by  
Registration  
Committee

(5) The College, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to the hearing.

Parties

Medical  
evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

- (a) where the evidence is required by the College, at least five days before the hearing commences; and
- (b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

Powers of  
Registration  
Committee

- (7) The Registration Committee shall, after the hearing,
  - (a) make a finding as to whether or not the member is an incapacitated member; and
  - (b) where the member is found to be an incapacitated member, by order,
    - (i) revoke his licence,
    - (ii) suspend his licence for such period as the Committee considers appropriate, or
    - (iii) attach such terms and conditions to the licence as the Committee considers appropriate.

## Procedures

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the order.

Restoration  
of licence

**109.**—(1) A person whose licence has been revoked or suspended for cause under this Part, or registration has been suspended or cancelled for cause under a predecessor of this



Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or cancellation or, where the suspension is for more than one year, one year after the suspension.

(2) The Registrar shall refer the application to the Discipline Committee, or where the revocation or suspension was on the grounds of incapacity to the Registration Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member. Reference to  
Discipline  
Committee

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 9 of section 11 apply, *mutatis mutandis*, to proceedings of the Registration Committee and Discipline Committee under this section. Procedures

**110.**—(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence, the Registrar may by order appoint one or more persons to make an investigation to ascertain whether such an act has occurred, and the person appointed shall report the result of his investigation to the Registrar. Investigation  
of members

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation, and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act. Powers of  
investigator  
  
1971, c. 49

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation. Obstruction  
of  
investigator

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such Search  
warrant

person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of  
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Admissibility  
of copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.

Report of  
Registrar

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or to such other committee as he considers appropriate.

Matters  
confidential

**111.**—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 110 and any member of the Council or a Committee shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 110 and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations;



(b) as may be required for the enforcement of *The Health Insurance Act, 1972*; 1972, c. 91

(c) to his counsel; or

(d) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws. Testimony in civil suit

**112.**—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit. Restraining orders

(2) An appeal lies to the Supreme Court from an order made under subsection 1. Appeal

**113.**—(1) Nothing in this Part applies to the practice of ophthalmic dispensing by an ophthalmic dispenser registered under *The Ophthalmic Dispensers Act*. Exemption under R.S.O. 1970, c. 334

(2) Nothing in this Part prevents,

Retail merchants

(a) a retail merchant from operating, as part of his business, an optical department at his place of business where the practice of optometry is carried on,

(i) if the practice and the department are in charge of a licensed optometrist or a legally qualified medical practitioner, and

(ii) if the retail merchant files with the College annually the name and address of the owner or manager of the business, either of whom shall be a resident of Ontario, and the name of the optometrist or legally qualified medical practitioner in charge of the optical department;

- (b) the sale of protective glasses for industrial purposes, coloured glasses not embodying any ophthalmic lens, goggles or simple magnifying glasses not sold or devised for the relief or correction of any visual or muscular error or defect of the eye; or
- (c) the sale or offering for sale by a retail merchant at his place of business of spectacles or eyeglasses,

but the Lieutenant Governor in Council may make regulations governing or restricting the sale or offering for sale referred to in clause *c* and prescribing the terms and conditions thereof and designating the nature and kind of spectacles and eyeglasses that may be sold under this subsection.

#### Penalties

**114.**—(1) Every person who is in contravention of section 98 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

#### Idem

(2) Every person who, not being a member, uses an occupational designation prescribed by the regulations to be used by members or a like designation is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

#### Idem

(3) Any person who obstructs a person appointed to make an investigation under section 110 in the course of his duties is guilty of an offence and on summary conviction is liable to a fine not exceeding \$2,000.

#### Act, repealed

**115.**—(1) *The Optometry Act*, being chapter 335 of the Revised Statutes of Ontario, 1970, is repealed.

#### References

(2) Any reference in any Act to an optometrist registered under *The Optometry Act* shall be deemed to be a reference to an optometrist licensed under this Part and any reference to *The Optometry Act* shall be deemed to be a reference to this Part.

## PART VI

## PHARMACY

## 116.—(1) In this Part,

Interpre-  
tation

(a) "by-laws" means the by-laws made under this Part;

(b) "College" means the Ontario College of Pharmacists;

(c) "Council" means the Council of the College;

(d) "drug" means any substance or preparation containing any substance,

(i) manufactured, sold or represented for use in,

1. the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical or mental state or the symptoms thereof, in humans, animals or fowl, or

2. restoring, correcting, or modifying functions in humans, animals or fowl,

(ii) referred to in Schedule C, D, E, F, G or N, or

(iii) listed in a publication named by the regulations,

(iv) named in the regulations,

but does not include,

(v) any substance or preparation referred to in sub-clause i, ii or iii manufactured, offered for sale or sold as, or as part of, a food, drink or cosmetic,

(vi) any medicine registered under the *Proprietary or Patent Medicine Act* (Canada) and sold in accordance with its provisions, or

R.S.C. 1970.  
c. P-25

(vii) a substance or preparation named in Schedule A or B;

(e) "interchangeable pharmaceutical product" means a product containing a drug or drugs in the same



amounts of the same active ingredients in the same dosage form as that directed by a prescription;

- (f) “intern” means a person who is registered under this Part as an intern;
- (g) “licence” means a licence to act as a pharmacist issued under this Part;
- (h) “member” means a member of the College;
- (i) “Parcost C.D.I.” means the Parcost Comparative Drug Index prescribed by the regulations;
- (j) “pharmacist” means a person who is licensed under this Part as a pharmacist;
- (k) “pharmacy” means a premises in or in part of which prescriptions are compounded and dispensed for the public or drugs are sold by retail;
- (l) “prescriber” means a legally qualified medical practitioner, dentist or veterinarian who gives a prescription;
- (m) “prescription” means a direction from a prescriber directing the dispensing of any drug or mixture of drugs for a designated person or animal;
- (n) “register” means a register maintained by the Registrar under this Part;
- (o) “registered pharmacy student” means a person who is registered under this Part as a pharmacy student;
- (p) “Registrar” means the Registrar of the College;
- (q) “registration” means a registration as an intern or registered pharmacy student and “registered” has a corresponding meaning;
- (r) “regulations” mean the regulations made under this Part.

(2) A reference in this Part to Schedules A, B, C, D, E, F, <sup>Schedules</sup> G or N is a reference to such Schedule established by the regulations for the purposes of this Part.

(3) The practice of a pharmacist is a health discipline to <sup>Health discipline</sup> which this Part applies.

**117.**—(1) This Part does not apply to,

<sup>Application of Part</sup>

(a) drugs compounded, dispensed or supplied under the authority of a prescriber for persons under health care in a hospital or a health or custodial institution approved or licensed under any general or special Act;

(b) the selling of,

(i) any substance registered under the *Pest* <sup>R.S.C. 1970, c. P-10</sup> *Control Products Act* (Canada) and sold in accordance with its provisions,

(ii) any feeding stuffs registered under the *Feeds* <sup>R.S.C. 1970, c. P-7</sup> *Act* (Canada) and sold in accordance with its provisions,

(iii) a drug by a person licensed under *The Live* <sup>1973, c. 80</sup> *Stock Medicines Act, 1973*;

(c) the practice of a veterinarian under *The Veterinarians* <sup>R.S.O. 1970, c. 480</sup> *Act*.

(2) Nothing in this Part prevents any person from selling <sup>Idem</sup> or dispensing a drug to a person authorized under this Act to dispense, prescribe or administer drugs.

#### THE ONTARIO COLLEGE OF PHARMACISTS

**118.**—(1) The Ontario College of Pharmacy is continued as <sup>Ontario College of Pharmacy continued</sup> the Ontario College of Pharmacists, being a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

(2) The objects of the College are,

<sup>Objects</sup>

(a) to regulate the practice of pharmacists and to govern its members in accordance with this Act, the the regulations and the by-laws;



- (b) to establish, maintain and develop standards of knowledge and skill among its members;
- (c) to establish, maintain and develop standards of qualification and practice for the practice of pharmacists;
- (d) to establish, maintain and develop standards of professional ethics among its members;
- (e) to establish, maintain and develop standards for the operation of pharmacies;
- (f) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the college by or under any Act,

in order that the public interest may be served and protected.

Membership  
in the  
College

**119.**—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject.

Resignation  
of  
membership

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Cancellation  
for default  
of fees

(3) The Council may cancel a licence for non-payment of any prescribed fee after the member has been given at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Council  
of the  
College

**120.**—(1) The Council of the Ontario College of Pharmacy is continued and shall be the governing body and board of directors of the Ontario College of Pharmacists and shall manage and administer its affairs.

Composition  
of Council

(2) The Council shall be composed of,

- (a) not fewer than thirteen and not more than nineteen persons who are members and are elected by the members in the manner provided by the regulations;
- (b) not fewer than four and not more than six persons who are not members of a Council under this Act or registered or licensed under this or any other Act governing a health practice, and who are appointed by the Lieutenant Governor in Council; and

- (c) the dean of each faculty of pharmacy in Ontario or, in his absence, a representative who is a member of the faculty and of the College appointed by the dean.

(3) The persons appointed under clause *b* of subsection 2 shall be paid out of moneys appropriated therefor by the Legislature such expenses and remuneration as is determined by the Lieutenant Governor in Council. Remuneration of lay members

(4) The appointment of every person appointed under subsection 2 expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment. Expiration of appointment

(5) Every member who is, Qualifications to vote

(a) resident in Ontario; and

(b) not in default of payment of the annual fee prescribed by the regulations,

is qualified to vote at an election of members of the Council.

(6) The Council shall elect a President and Vice-President from among its members. President, Vice-President

(7) The Council shall appoint during pleasure a Registrar and may appoint a deputy registrar who shall have the powers of the Registrar for the purposes of this Part, and may appoint such other persons as are from time to time necessary or desirable in the opinion of the Council to perform the work of the College. Registrar and staff

(8) A majority of the members of the Council constitutes a quorum. Quorum

(9) The Council shall meet at least twice a year.

Meetings of Council

(10) The members of the Council of the Ontario College of Pharmacy who were elected under *The Pharmacy Act*, being chapter 348 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause *a* of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant. Continuation of Council members under R.S.O. 1970, c. 348

Powers of  
Minister

**121.** In addition to his powers and duties under Part 1, the Minister may,

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

## Regulations

**122.**—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

- (a) fixing the number of members to be elected to the Council and establishing the regional and other representation for elections;
- (b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected to the Council, and controverted elections;
- (c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
- (d) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences and registrations;
- (e) prescribing classes of licences governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (f) prescribing the qualifications for and conditions of registration of students and interns and governing in-service training for students and interns;
- (g) providing for the maintenance and inspection of registers;
- (h) governing standards of practice for the profession;
- (i) respecting the advertising of professional services;
- (j) prescribing the books and records to be kept, returns to be made and information to be furnished with respect to pharmacies and the practice of pharmacists and providing for the examination and audit of such books and records, as the regulations prescribe;



- (k) regulating advertising by members;
- (l) providing for the designation of honorary members of the College and prescribing their rights and privileges;
- (m) prohibiting practice by pharmacists where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (n) defining professional misconduct for the purposes of this Part;
- (o) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
- (q) respecting the reporting and publication of decisions in disciplinary matters;
- (r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (s) respecting the duties and authority of the Registrar;
- (t) requiring the payment of annual fees by members, students and interns and fees for licensing, registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (u) prescribing forms and providing for their use;
- (v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

(2) The number of members to be elected to the Council and the electoral divisions and other representation fixed and established under clause *a* of subsection 1 shall not be altered or amended more than once in any five year period.

Amendment  
of electoral  
divisions

## By-laws

**123.**—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing,

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) respecting the calling, holding and conducting of meetings of the membership of the College;
- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) providing for the appointment of inspectors for the purposes of this Part;
- (m) prescribing forms and providing for their use;



- (n) providing procedures for the making, amending and revoking of the by-laws;
- (o) respecting management of the property of the College;
- (p) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
- (s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge or pharmacy education, or maintain or improve the standards of practice in pharmacy or to support and encourage public information and interest in the past and present role of pharmacy in society;
- (t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

(2) A copy of the by-laws made under subsection 1 and amendments thereto, <sup>Distribution of by-laws</sup>

- (a) shall be forwarded to the Minister;
- (b) shall be forwarded to each member; and
- (c) shall be available for public inspection in the office of the College.

**124.**—(1) Except as provided in this Part, no person shall <sup>licence</sup> act or hold himself out as acting as a pharmacist unless <sup>to act as</sup> he <sup>pharmacist</sup> is licensed under this Part.

Use of  
titles

(2) Any person who, in making or purporting to make a retail sale of a drug or substance in Schedule A or B, uses or associates therewith the title or designation of,

- (a) pharmacist;
- (b) pharmaceutical chemist;
- (c) chemist;
- (d) druggist;
- (e) apothecary,

whether or not in combination with each other or with any other term shall be deemed to be holding himself out as acting as a pharmacist for the purposes of subsection 1.

Conflict  
with other  
health  
discipline

(3) A licence shall be deemed to authorize a member to act as a pharmacist under this Part, notwithstanding that such action is included in the practice of any other health discipline.

Establish-  
ment of  
committees

**125.**—(1) The Council shall establish and appoint as hereinafter provided the following committees,

- (a) Executive Committee;
- (b) Accreditation Committee;
- (c) Registration Committee;
- (d) Complaints Committee;
- (e) Discipline Committee,

and may establish such other committees as the Council from time to time considers necessary.

Vacancies

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

Completing  
quorum

(3) Where the persons attending a meeting of any Committee duly called fail to constitute a quorum, the President may appoint such members of the Council as are required to complete the quorum to attend the meeting and act as a member of the Committee for the purposes of the meeting.

**126.**—(1) The Executive Committee shall be composed of, <sup>Executive Committee</sup>

- (a) the President, who shall be Chairman of the Committee;
- (b) the Vice-President; and
- (c) three members of the Council appointed by the Council, one of whom shall be the immediate past president, if he is a member of Council, and one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) A majority of the members of the Executive Committee <sup>Quorum</sup> constitutes a quorum.

(3) The Executive Committee shall perform such functions <sup>Duties</sup> of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

**127.**—(1) The Registration Committee shall be composed <sup>Registration Committee</sup> of,

- (a) one member of the Council who is the dean of a faculty of pharmacy, or his representative on the Council;
- (b) two members of the Council who were elected to the Council; and
- (c) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

(2) The Council shall name one member of the Registration <sup>Chairman</sup> Committee to be Chairman.

(3) A majority of the members of the Registration Com- <sup>Quorum</sup> mittee constitutes a quorum.

**128.**—(1) The Registrar shall issue a licence or registration <sup>Licences and registrations</sup> to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence or registration that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.



Powers and  
duties of  
Registration  
Committee

(2) The Registration Committee,

- (a) shall determine the eligibility of applicants for licences and registrations and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and
- (b) may exempt an applicant from any admission requirement.

Conditions  
of licences

(3) The Registration committee may direct the Registrar to issue or refuse to issue licences or make or refuse to make registrations or to issue licences and make registrations subject to such terms, conditions and limitations as the Committee specifies.

Review of  
qualifications

(4) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

Registers of  
licences

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed or registered under this Part, identifying the terms, conditions and limitations attached to the licence or registration, and shall note on the register every revocation, suspension and cancellation or termination of a licence or registration and such other information as the Registration Committee or Discipline Committee directs.

Continuation  
of licences  
R.S.O. 1970,  
c. 348

(6) Every licence and registration issued or made under *The Pharmacy Act*, being chapter 348 of the Revised Statutes of Ontario, 1970, and in effect immediately before this Part comes into force continues in the same manner as if issued or made under this Part.

Accredita-  
tion  
Committee  
of,

**129.—(1)** The Accreditation Committee shall be composed

- (a) three members of the Council who were elected to the Council; and
- (b) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council,

and shall exercise the powers and carry out the duties assigned to it under sections 138 and 139.

(2) No person who is a member of the Discipline Committee <sup>Idem</sup> shall be a member of the Accreditation Committee.

(3) The Council shall name one member of the Accreditation <sup>Chairman</sup> Committee to be Chairman.

(4) A majority of the members of the Accreditation Com- <sup>Quorum</sup> mittee constitutes a quorum.

**130.**—(1) The Complaints Committee shall be composed <sup>Complaints Committee</sup> of,

(a) three members of the Council who were elected to the Council; and

(b) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

(2) No person who is a member of the Discipline Committee <sup>Idem</sup> shall be a member of the Complaints Committee.

(3) The Council shall name one member of the Complaints <sup>Chairman</sup> Committee to be its Chairman.

(4) A majority of the members of the Complaints Com- <sup>Quorum</sup> mittee constitutes a quorum.

**131.**—(1) The Complaints Committee shall consider and <sup>Duties</sup> investigate complaints made by members of the public regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless,

(a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

(2) The Committee in accordance with the information it <sup>Idem</sup> receives may,



- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 134; or
- (b) direct that the matter not be referred under clause *a*; or
- (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.

**Decision**

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8.

**Discipline Committee**

**132.**—(1) The Discipline Committee shall be composed of,

- (a) four members of the Council who were elected to the Council; and
- (b) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

**Quorum and votes**

(2) Three or more members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum, and all disciplinary decisions require the vote of a majority of the members present at the meeting.

**Chairman**

(3) The Council shall name one member of the Discipline Committee to be its Chairman.

**Reference by Council or Executive Committee**

(4) Notwithstanding section 131, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member.

**Duties of Discipline Committee**

**133.**—(1) The Discipline Committee shall,

- (a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;
- (b) hear and determine matters referred to it under section 131, 132, 135 or 139; and
- (c) perform such other duties as are assigned to it by the Council.

**Idem**

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall,

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

(3) A member may be found guilty of professional misconduct by the Committee if, Professional misconduct

- (a) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;
- (b) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

(4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his professional responsibilities a lack of knowledge, skill or judgment or disregard for the welfare of the public he serves of a nature or to an extent that demonstrates he is unfit to carry out the responsibilities of a pharmacist. Incompetence

(5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order, Powers of Discipline Committee

- (a) revoke the licence of the member;
- (b) suspend the licence of the member for a stated period not exceeding twelve months;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

## Costs

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes.

## Stay on appeal for incompetence

(7) Where the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

## Stay on appeal for professional misconduct

(8) Where the Discipline Committee revokes, suspends or restricts the licence of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned.

## Service of decision of Discipline Committee

(9) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member.

## Continuation on expiry of Committee membership

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

## Interpretation

**134.—(1)** In this section,

- (a) “board of inquiry” means a board of inquiry appointed by the Executive Committee under subsection 2;
- (b) “incapacitated member” means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise as a pharmacist or that his practice be restricted.

## Reference to board of inquiry

(2) Where the Registrar receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at



least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

(3) The board of inquiry shall make such inquiries as it <sup>Examination</sup> considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the Executive Committee on the recommendation of the Board may order that his licence be suspended until he complies.

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and the Executive Committee may, on the recommendation of the Registration Committee, suspend the member's licence until the determination of the question of his capacity becomes final. <sup>Hearing by Registration Committee</sup>

(5) The College, the person whose capacity is being investigated and any other person specified by the Committee are <sup>Parties</sup> parties to the hearing.

(6) A legally qualified medical practitioner is not <sup>Medical evidence</sup> compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

(a) where the evidence is required by the College, at least five days before the hearing commences; and

(b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

Powers of  
Registration  
Committee

(7) The Registration Committee shall, after the hearing,

- (a) make a finding as to whether or not the member is an incapacitated member; and
- (b) where the member is found to be an incapacitated member, by order,
  - (i) revoke his licence,
  - (ii) suspend his licence for such period as the Committee considers appropriate, or
  - (iii) attach such terms and conditions to the licence as the Committee considers appropriate.

Notice  
of orders

(8) The Registrar may give notice of an order made under this section to such persons as he considers appropriate in the public interest.

## Procedures

(9) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Restoration  
of licence

**135.**—(1) A person whose licence has been revoked for cause under this Part, or registration has been suspended or cancelled for cause under a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or cancellation or, where the suspension is for more than one year, one year after the suspension.

Reference  
to  
Discipline  
Committee

(2) The Registrar shall refer the application to the Discipline Committee, or where the revocation or suspension was on the grounds of incapacity, to the Registration Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member.

## Procedures

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 9 of section 11 apply, *mutatis mutandis*, to proceedings



of the Registration Committee and Discipline Committee under this section.

(4) Notwithstanding subsections 1, 2 and 3, the Council or the Executive Committee may direct at any time that a licence be issued to a person whose licence has previously been revoked for cause or a suspension for cause be removed, subject to such terms, conditions or limitations as the Council or Executive Committee, as the case may be, considers appropriate.

Direction  
by Council  
to issue  
licence

**136.**—(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence the Registrar may by order appoint one or more persons to make an investigation to ascertain whether such act has occurred, and the person appointed shall report the result of his investigation to the Registrar.

Investigation  
of  
members

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may upon production of his appointment enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

Powers of  
investigator

1971, c. 49

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Obstruction  
of  
investigator

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with

Search  
warrant

such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of  
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Admissi-  
bility of  
copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.

Report of  
Registrar

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or such other Committee as he considers appropriate.

Matters  
confidential

**137.**—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 136, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation and shall not communicate any such matters to any other person except,

(a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations; or

1972, c. 91

(b) as may be required for the enforcement of *The Health Insurance Act, 1972*;

(c) to his counsel; or

(d) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws. Testimony in civil suit

#### PHARMACIES

**138.**—(1) No person shall establish or operate a pharmacy unless a certificate of accreditation has been issued in respect thereof. Certification of accreditation

(2) The Registrar shall issue a certificate of accreditation and renewals thereof to any applicant therefor where the applicant and the pharmacy and its proposed operation qualify under this Part and the regulations and shall refer to the Accreditation Committee every application for a certificate or renewal that he proposes to refuse or to which he considers terms, conditions or limitations should be attached. Issuance

(3) The Accreditation Committee shall determine the eligibility of the applicant and the pharmacy or proposed pharmacy and its operation and may direct the Registrar to issue or refuse to issue the accreditation certificate or to issue the accreditation certificate subject to such terms, conditions or limitations as the Committee directs. Accreditation Committee

(4) The provisions of Part I applying to hearings, review and appeals in respect of proceedings of the Registration Committee apply, *mutatis mutandis*, in respect of proceedings of the Accreditation Committee. Procedures

(5) Every certificate of accreditation issued under *The Pharmacy Act*, being chapter 348 of the Revised Statutes of Ontario, 1970, and in effect immediately before this Part comes into force continues in the same manner as if issued under this Part. Continuation of certificates R.S.O. 1970, c. 348

**139.**—(1) Where the Accreditation Committee has reason to believe that a pharmacy or its operation fails to conform to the requirements of this Part and the regulations or to any term, condition or limitation to which its certificate of accreditation is subject, the Committee may refer the matter to the Discipline Committee for a hearing and determination. Revocation of certificate of accreditation

(2) Where the Accreditation Committee refers a matter to the Discipline Committee and the Discipline Committee finds Powers of Discipline Committee



that a pharmacy or its operation fails to conform to the requirements of this Part and the regulations or to any term, condition or limitation to which its certificate of accreditation is subject, the Discipline Committee may,

- (a) suspend the certificate of accreditation for a stated period; or
- (b) revoke the certificate of accreditation.

**Procedures**

(3) The provisions of Part I and this Part applying to proceedings before the Discipline Committee in respect of professional misconduct and appeals therefrom apply to the proceedings before the Discipline Committee under this section.

**Cancellation  
for non-  
payment  
of fee**

(4) The Council may cancel a certificate of accreditation for non-payment of the prescribed fee after the person operating the pharmacy has been given at least two months notice of default and intention to cancel.

**Closing  
of pharmacy**

**140.** Every person who permanently closes a pharmacy shall immediately remove all signs and symbols relating to the practice of pharmacy either within or outside the premises, shall remove and dispose of all drugs according to law and shall submit in writing to the Registrar such information and within such time as the regulations prescribe.

**Operation of  
pharmacies  
by corpora-  
tion**

**141.—(1)** No corporation shall own or operate a pharmacy unless the majority of the directors of the corporation are pharmacists.

**Idem**

(2) No corporation shall own or operate a pharmacy unless a majority of each class of shares of the corporation is owned by and registered in the name of pharmacists.

**Application  
of subs. 2**

(3) For the purposes of subsection 2, shares registered in the name of the personal representative of a deceased pharmacist shall, for a period not exceeding four years, be considered to be registered in the name of a pharmacist.

**Idem**

(4) Subsection 2 does not apply to any corporation operating a pharmacy on the 14th day of May, 1954.

**Application  
of section**

(5) This section does not apply to the operation of a pharmacy by a non-profit corporation having as its objects and providing health services by members of more than one health discipline.

**Where  
licence  
revoked**

**142.** No person whose licence as a pharmacist has been revoked for cause or while his licence is suspended for cause,

- (a) shall be employed or work in a pharmacy; or
- (b) shall act as a director or vote as a shareholder in a corporation operating a pharmacy.

**143.**—(1) No person other than a pharmacist or a corporation complying with the requirements of section 141 shall own or operate a pharmacy. Ownership of pharmacies

(2) For the purposes of the ownership of a pharmacy, or for the purposes of the composition of the board of directors or ownership of shares of a corporation as required by section 141, the right to operate the pharmacy shall not be affected by. Idem

(a) any suspension of the licence of a pharmacist; or

(b) the revocation of the licence of a pharmacist until after a period of six months has elapsed.

**144.**—(1) Where a person owning and operating a pharmacy becomes bankrupt, insolvent or makes an assignment for the benefit of creditors, he shall so notify the Registrar and the trustee in bankruptcy, liquidator or assignee, as the case may be, may own and operate the pharmacy for the purposes of the bankruptcy, insolvency or assignment. Carrying on business of bankrupt person

(2) Upon the death of a pharmacist who was owning and operating a pharmacy at the time of his death, the personal representative of such deceased person may own and operate the pharmacy for a period of four years or for such further period as the Council may authorize. Carrying on business of deceased person

(3) Every person authorized to own and operate a pharmacy under subsection 1 or 2 shall immediately upon becoming so authorized file with the Registrar evidence of his authority. Notification to Registrar

**145.**—(1) No person shall operate a pharmacy unless, Supervision of pharmacist

(a) it is under the supervision of a pharmacist who is physically present; and

(b) it is managed by a pharmacist so designated by the owner of the pharmacy.

(2) Every pharmacist practising in a pharmacy shall publicly display his licence in the pharmacy except during such period, if any, as the licence is under suspension. Displaying licence

**146.** No person shall in connection with a retail business use the designation, Designation

(a) drug store;

(b) pharmacy;



(c) drug department;

(d) drug sundries;

(e) drug or drugs;

(f) drug mart; or

(g) medicines,

unless the business is an accredited pharmacy.

Inspection  
of premises

**147.**—(1) An inspector appointed under a by-law may enter any pharmacy or other shop in the performance of his duties under this Part at all reasonable times.

Inspection  
of records

(2) Any record required to be kept under this Part shall be open to inspection by any inspector appointed under a by-law.

#### DRUGS

Dispensing  
of drugs

**148.**—(1) Subject to section 153, no person other than a pharmacist or an intern or a registered pharmacy student acting under the supervision of a pharmacist who is physically present shall compound, dispense or sell any drug in a pharmacy.

Exception  
for certain  
drugs

(2) Where a pharmacist or an intern is present in the pharmacy and is available to the purchaser for consultation, subsection 1 does not apply to the sale in a pharmacy of a drug other than,

(a) a drug requiring a prescription for sale;

(b) a drug referred to in Part I of Schedule D; or

(c) a drug referred to in Schedule C.

Misrepresenta-  
tion

**149.** No person shall knowingly sell any drug under the representation or pretence that it is a particular drug that it is not, or contains any substance that it does not.

Labelling  
of Sched. D  
drugs

**150.**—(1) No person shall sell a drug listed in Schedule D unless it is labelled in accordance with the regulations.

Record  
of poisons

(2) No person shall sell by retail a drug listed in Part I of Schedule D unless a record of the sale is made in such manner as the regulations prescribe.

(3) Subsections 1 and 2 do not apply to a drug when Exception it is dispensed pursuant to a prescription or forms part of the ingredients of a prescription.

**151.** Drugs referred to in Schedules D, E, F, G and N Mailing of drugs shall be sent through the mail only by registered mail.

**152.** The manager of every pharmacy shall keep or cause Records of pharmacy to be kept a record of every purchase and sale of a drug referred to in Schedule G or N in such form or manner as the regulations may prescribe.

**153.**—(1) No person shall sell by retail a substance listed Sale of Sched. B drugs in Schedule B unless it is labelled in accordance with the regulations.

(2) No person other than a pharmacist shall sell by retail Idem a substance listed in Schedule B for the prevention or treatment of an ailment, disease or physical disorder, unless it is sold in the container in which it was received by the seller.

**154.**—(1) Subject to the regulations, no person shall sell Prescription drugs by retail any drug referred to in Schedule E, F, G or N, except on prescription given in such form, in such manner and under such conditions as the regulations prescribe.

(2) Subsection 1 does not apply to drugs referred to in Exception Part II of Schedule F that are sold in a container labelled by the manufacturer as for veterinary or agricultural use or sold in a form unsuitable for human use.

**155.**—(1) Every person who dispenses a drug pursuant to Information noted on prescription a prescription shall ensure that the following information is recorded on the prescription,

- (a) the name and address of the person for whom the drug is prescribed;
- (b) the name, strength (where applicable) and quantity of the prescribed drug;
- (c) the directions for use, as prescribed;
- (d) the name and address of the prescriber;
- (e) the identity of the manufacturer of the drug dispensed;
- (f) an identification number or other designation;

- (g) the signature of the person dispensing the drug and, where different, also the signature of the person receiving a verbal prescription;
- (h) the date on which the drug is dispensed;
- (i) the price charged.

## Retention of records

(2) The records required under subsection 1 shall be retained for not less than six years.

## Identification markings

(3) The container in which the drug is dispensed shall be marked with,

- (a) the identification number that is on the prescription;
- (b) the name, address and telephone number of the pharmacy in which the prescription is dispensed;
- (c) the identification of the drug as to its name, its strength and its manufacturer, unless directed otherwise by the prescriber;
- (d) the quantity where the drug dispensed is in solid oral dosage form;
- (e) the name of the owner of the pharmacy;
- (f) the date the prescription is dispensed;
- (g) the name of the prescriber;
- (h) the name of the person for whom it is prescribed;
- (i) the directions for use as prescribed.

## Copy of prescription

**156.**—(1) Every person in respect of whom a prescription is presented to a pharmacist to be dispensed, unless otherwise directed by the prescriber, is entitled to have a copy of it marked as such, furnished to him, his agent, or a pharmacist acting on behalf of such person or agent.

## Disposal of prescriptions

(2) Prescriptions in a pharmacy that ceases to operate as a pharmacy shall be delivered to the persons, or agents of the persons, who presented the prescription or to another pharmacy that is reasonably readily available to such person or his agent, or failing either, to the College.

## Prescription by doctor out of Ontario

**157.** A pharmacist may dispense a drug pursuant to a written order signed by a physician or dentist licensed to



practise in a province in Canada other than Ontario, if in the professional judgment of the pharmacist the patient requires the drug immediately, but such order shall not be refilled.

**158.**—(1) Every person who dispenses a prescription may, unless otherwise directed by the prescriber, select and dispense an interchangeable pharmaceutical product other than the one prescribed, if the interchangeable pharmaceutical product dispensed is listed as interchangeable in the Parcost C.D.I., and is lower in cost than the drug prescribed. Substitution of interchangeable product

(2) Where a drug prescribed is listed in the Parcost C.D.I. and the identity of the manufacturer is not specified by the prescriber every person who dispenses a prescription shall select and dispense an interchangeable pharmaceutical product listed in the Parcost C.D.I. Generic description

(3) No person shall knowingly supply an interchangeable product under subsection 1 or 2 at a price in excess of the cost of the lowest priced interchangeable pharmaceutical product in his inventory and the maximum dispensing fee as set out in the Parcost C.D.I. Cost

(4) No action or other proceeding lies or shall be instituted against a prescriber or pharmacist on the grounds that an interchangeable pharmaceutical product other than the one prescribed was dispensed in accordance with this section. No liability for substitution

**159.**—(1) Every person who operates or manages a pharmacy shall provide the Minister with such information from records required to be kept under section 155 as the Minister requests. Reports by pharmacists

(2) The Registrar shall provide the Minister with such information respecting substances referred to in the Schedules, except Schedule A, as the Registrar possesses and the Minister requests. Reports by Registrar

**160.** (1) No person shall sell by wholesale any drug for the purpose of sale by retail to any person who is not entitled to sell the drug by retail. Sale of drugs by wholesale

(2) Every person supplying drugs by wholesale in Ontario shall register with the College as a drug wholesaler and furnish the Registrar with a signed statement showing, Registration by wholesaleers

- (a) his full name and address, or if a corporation the name of the corporation, the names and addresses of the president and directors thereof;

(b) the principal business address,

and with respect to his places of business where drugs are handled,

(c) the address of each place of business, agent or representative in Ontario;

(d) the name of the manager or person responsible for each place of business in Ontario;

(e) the date on which he proposes to commence business at each new location in Ontario.

Furnishing  
of informa-  
tion

(3) The information required by subsection 2 shall be furnished within thirty days after this Part comes into force and thereafter at least seven days before commencing business and any change in the information required by subsection 2 shall be furnished to the Registrar within seven days of the change.

Regulations

**161.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Council may make regulations,

(a) prescribing the substances that are included in Schedules A, B, C, D, E, F, G and N for the purpose of this Part;

(b) naming substances for the purposes of clause *d* of subsection 1 of section 116 and specifying the provisions of this Act that shall apply in respect of such substances;

(c) naming publications for the purposes of clause *d* of subsection 1 of section 116;

(d) prescribing the percentage of any substance to be contained in any preparation referred to in any Schedule;

(e) prescribing the manner in which prescriptions shall be given in respect of the drugs referred to in Schedules E, F, G and N and the conditions under which such prescriptions may be given;

(f) authorizing the refilling of prescriptions without further prescription and prescribing the conditions under which prescriptions may be refilled without further prescription;



- (g) prescribing the manner in which records shall be kept of the purchase and sale of the drugs referred to in Schedules D, G and N;
- (h) pertaining to the transfer of prescriptions and the records to be kept by the transferor and the transferee;
- (i) designating substances listed in Schedule D that may be sold by persons not otherwise authorized under this Part and authorizing the sale of such substances by any persons or classes of persons not otherwise authorized under this Part and prescribing the conditions under which such substances shall be sold by such persons or classes of persons;
- (j) prescribing the labelling of substances listed in Schedule B for the purposes of section 153;
- (k) providing for the establishment and maintenance of patient record systems;
- (l) prescribing the types of containers to be used for containing any drug and the designs, specifications and labelling of containers used for containing any drug;
- (m) prescribing standards for accreditation of pharmacies including maintenance, operation, space, equipment and facilities required therefor;
- (n) providing for applications for certificates of accreditation of pharmacies, and the issuance of such certificates and their expiration and renewal and requiring the payment of fees therefor and prescribing the amounts thereof;
- (o) providing for the filing with the Registrar of information respecting the location of the place of practice and the residential address of pharmacists, the name and address of pharmacies in the Province of Ontario including the name and address of the owner and the manager of such pharmacies, and any changes thereof, and the form of such information and the time of filing;
- (p) providing for the information, instruments or documents to be filed with the Registrar by persons opening, acquiring, relocating or closing a pharmacy, the form thereof and the time of filing;
- (q) prescribing standards for the subdivision of premises so that all or some specified drugs or classes thereof

are restricted to a specified area and so that the part of the premises to which such drugs are restricted may be rendered not accessible to the public, while the other part remains open.

Idem

(2) The Lieutenant Governor in Council may make regulations,

(a) regulating the use of containers in which drugs may be dispensed and designating organizations to test, certify and designate containers that meet standards approved by the Minister for such purposes as may be specified in the regulations, and requiring the use of containers that are so certified and designated except under such circumstances as are prescribed;

(b) prescribing the Parcost C.D.I. for the purpose of this Part.

#### ENFORCEMENT

Restraining  
orders

**162.**—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

Recovery  
of charges

**163.** A person who sells any drug in contravention of this Part or the regulations is not entitled to recover any charges in respect thereof.

Surrender  
of cancelled  
licence or  
accredita-  
tion  
certificate

**164.** Where a licence or certificate of accreditation is revoked or cancelled, the former holder thereof shall forthwith deliver the licence or certificate to the Registrar.

Penalties

**165.**—(1) Every person who is in contravention of section 124 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

(2) Every person who not being a member uses an occupational designation prescribed by the regulations to be used by members or a like designation is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

(3) Every person who contravenes any provision of this Act or the regulations for which no penalty is otherwise provided is guilty of an offence and on summary conviction is liable to a fine not exceeding \$2,000.

**166.**—(1) Every owner or manager of a pharmacy is liable for every offence against this Part committed by any person in his employ or under his supervision with his permission, consent or approval, express or implied, and every director of a corporation operating a pharmacy is liable for every offence against this Part committed by any person in the employ of the corporation with his permission, consent or approval, express or implied. Idem  
Responsibility of owner and manager

(2) Where any person operates a pharmacy contrary to this Part or the regulations, the owner and manager of such pharmacy, or either of them, or any director of a corporation operating a pharmacy, may be proceeded against, and prosecution or conviction of either of them is not a bar to prosecution or conviction of the other. Idem

**167.** In any prosecution under this Part,

Evidence

- (a) a certificate as to the analysis of any drug or poison purporting to be signed by a Food and Drug Analyst or Provincial Analyst is admissible in evidence as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the analyst;
- (b) any article labelled as containing any drug is admissible in evidence as *prima facie* proof that the article contains the drug described on the label;
- (c) the label of the container of a drug dispensed pursuant to a prescription is admissible in evidence as *prima facie* proof that the drug named in the prescription was dispensed;
- (d) evidence that a drug is found in a shop or place in which business is transacted is admissible as *prima facie* proof that it was kept for sale;



- (e) evidence of the publishing of a sign, title or advertisement containing the name of an establishment or the owner thereof is admissible in evidence as *prima facie* proof that the sign, title or advertisement was published by the owner of the establishment.

## Repeals

**168.**—(1) The following Acts are repealed:

1. *The Pharmacy Act*, being chapter 348 of the Revised Statutes of Ontario, 1970.
2. *The Pharmacy Amendment Act, 1972*, being chapter 99.
3. *The Pharmacy Amendment Act, 1973*, being chapter 126.

## References

(2) Any reference in any Act or regulation to a pharmaceutical chemist registered under *The Pharmacy Act* shall be deemed to be a reference to a pharmacist licensed under this Part and any reference to *The Pharmacy Act* shall be deemed to be a reference to this Part.

## MISCELLANEOUS

Commence-  
ment

**169.**—(1) This Act, except sections 1 to 5 and sections 7 to 168, comes into force on the day it receives Royal Assent.

## Idem

(2) Sections 1 to 5 and sections 7 to 168, come into force on a day to be named by proclamation of the Lieutenant Governor.

## Short title

**170.** This Act may be cited as *The Health Disciplines Act, 1974*.





The Health Disciplines Act, 1974

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*1st Reading*

April 2nd, 1974

*2nd Reading*

*3rd Reading*

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THE HON. F. S. MILLER  
Minister of Health

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*(Government Bill)*

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 Elizabeth II, 1974

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**The Health Disciplines Act, 1974**

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THE HON. F. S. MILLER  
Minister of Health

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*(Reprinted as amended by the Social Development Committee)*

#### EXPLANATORY NOTE

The Bill re-enacts the legislation governing five major health professions:

1. Dentistry.
2. Medicine.
3. Nursing.
4. Optometry.
5. Pharmacy.

The Bill incorporates recommendations of the Committee on the Healing Arts and of the Royal Commission Inquiry into Civil Rights, Vol. 3, Section 4.

The principal changes are:

1. lay representation on the professional governing council;
2. closer supervisory powers in the Minister;
3. the creation of a health disciplines board for the purpose of conducting hearings and review respecting complaints and applications for licensing;
4. a complete system of hearings and review for all matters of licensing and discipline with uniformity of procedures for all professions.

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## BILL 22

1974

**The Health Disciplines Act, 1974**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**PART I****GENERAL****1.—(1) In this Act,**Interpre-  
tation

- (a) "Board" means the Health Disciplines Board established under section 6;
- (b) "health discipline" means a health discipline to which a Part of this Act applies;
- (c) "Minister" means the Minister of Health;
- (d) "regulations" means the regulations made under this Act.

**(2) In this Part,**

Idem

- (a) "College" means the corporate body of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;
- (b) "complaints committee" means the complaints committee of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;
- (c) "Council" means the governing body of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;

(d) “discipline committee” means the discipline committee of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;

(e) “registration” means,

(i) a licence to practise a health discipline or group of health disciplines issued under a Part of this Act requiring a licence to practise, or

(ii) a certificate respecting the practising of a health discipline or group of health disciplines issued under a Part of this Act,

the issuance of which is required to be entered on the register of the appropriate College, and “registered” has a corresponding meaning.

References  
to hearings  
1971, c. 47

(3) Nothing in this Act shall be construed to require a hearing to be held within the meaning of *The Statutory Powers Procedure Act, 1971* unless the holding of a hearing is specifically referred to.

Administra-  
tion of Act

**2.** The Minister is responsible for the administration of this Act.

Duties of  
Minister

**3.—(1)** It is the duty of the Minister to ensure that the activities of health disciplines are effectively regulated and co-ordinated in the public interest, to have appropriate standards of practice developed and ensure that these are maintained and to ensure that the rights of individuals to the services provided by health disciplines of their choice are maintained and to these ends to,

(a) inquire into or direct the appropriate Council or Councils to inquire into the state of the practice of one or more health disciplines in any locality or institution;

(b) require Councils to provide such reports and information as the Minister requires for his purposes including information from the registers of the Colleges;

(c) review proposals by a Council for changes in legislation or regulations of concern to that Council;

- (d) consider the by-laws of Councils and provide advice and guidance to Councils with respect to the proposed implementation or revision of such by-laws;
- (e) request a Council to make, amend or revoke regulations respecting any of the matters specified in its applicable Part; and
- (f) review legislation respecting the provision of health services by health disciplines.

(2) Where the Minister requests in writing that a Council make, amend or revoke a regulation under clause e of subsection 1 and the Council has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request. Regulations by Lieutenant Governor in Council

(3) The Minister may appoint such advisory committees as he considers desirable and appropriate to assist him in carrying out his duties under this Act. Appointment of advisory committees

4. Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health discipline, the Minister shall distribute the proposals to all health disciplines and all health disciplines are entitled to make submissions to the Minister with respect to such proposals. Distribution of proposed changes in legislation or regulations

5. Where a College has incurred expenses in complying with the directions of the Minister under this Part, the Minister may, out of moneys appropriated therefor by the Legislature, make appropriate payments to reimburse the College in whole or in part for the expenses incurred. Payments to Council

6. —(1) There is hereby established a body to be known as the Health Disciplines Board. Health Disciplines Board

(2) The Board shall be composed of not fewer than five and not more than seven members who shall be appointed by the Lieutenant Governor in Council on the recommendation of the Minister, and the Lieutenant Governor in Council shall designate one of the members of the Board to be chairman and one to be vice-chairman. Composition

(3) No person who is employed in the public service of Ontario or of any agency of the Crown, or who is or has been a member of a Council or who is or has been registered under this Act or any other Act governing a health practice shall be a member of the Board. Disqualification



**Term** (4) The members of the first Board may be appointed for a term of one, two or three years and thereafter appointments and reappointments shall be for a term of three years.

**Vacancies** (5) Every vacancy on the Board caused by the death, resignation or incapacity of a member, may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member.

**Quorum** (6) A majority of the members of the Board constitutes a quorum.

**Remuneration** (7) The members of the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.

**Seal** (8) The Board may prescribe and adopt a seal.

**Board employees** (9) Such employees as are necessary to carry out the duties of the Board under this Act shall be employed under *The Public Service Act*.  
R.S.O. 1970, c. 386

**Duties of Board** 7.—(1) The Board shall,

(a) conduct such hearings and perform such duties as are assigned to it by or under this or any other Act; and

(b) submit an annual report on its activities to the Minister and which shall include such additional information as the Minister may require and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

**Expert advice** (2) The Board may obtain expert or professional advice in connection with a hearing or complaint but the adviser shall be a person independent of,

(a) the parties in the case of a hearing; or

(b) the complainant and the member complained against in the case of a complaint,

and in the case of a hearing, the nature of the advice shall be made known to the parties in order that they may make submissions as to the advice.

**Complaints** 8.—(1) Where a complaints committee has made a disposition of a complaint respecting a member of its College in accordance with the provisions of the applicable Part of this

Act governing that College, the Registrar of the College shall send to the member and to the complainant by prepaid first class mail, a copy of the written decision made by the complaints committee and reasons therefor, if any, together with notice advising the complainant of his right of review under subsection 2.

(2) A complainant or the member complained against who is not satisfied with the decision made by a complaints committee disposing of a complaint, except a decision to refer a matter to the discipline committee, may within twenty days of receipt of the written decision request the Board to review the decision and the Board shall require the Registrar of the College to transmit to the Board within fifteen days of the Board's request, a record of the investigation and all such documents and things upon which the decision was based and the Board shall review the decision after giving the complainant an opportunity to state his complaint and the member an opportunity to state his answer thereto, either personally, by his agent or in writing.

Review of  
complaints

9. Where a complaint respecting a member of a College has not been disposed of by the complaints committee of the College within sixty days after the complaint is made, the Board upon application therefor may require the complaints committee to make an investigation and, where the investigation of the complaint has not been undertaken, completed and reported on to the Board by the committee within sixty days after the Board's request, the Board shall undertake such investigation and possesses all the powers of investigation that the complaints committee or the Registrar has in the applicable Part of this Act.

Investigation  
of complaint  
by Board

10.—(1) The Board may after review or investigation of a complaint under section 8 or 9 refer the complaint to the complaints committee and the Board may,

Powers of  
Board after  
review or  
investigation  
of complaint

- (a) confirm the decision, if any, made by the complaints committee;
- (b) make such recommendations to the complaints committee as the Board considers appropriate; or
- (c) require the complaints committee to take such action or proceedings as the committee is authorized to undertake under the applicable Part of this Act.

(2) Three members of the Board constitute a quorum for purposes of investigation or review of a complaint under section 8 or 9 or a hearing under section 11.

Board  
quorum

(3) The Board shall give its decision and reasons therefor in writing to the complainant and the member complained against.

Decision  
and  
reasons



Notice of  
proposal  
to refuse  
registration

11.—(1) Where a registration committee proposes to refuse to grant registration to an applicant, or proposes to attach terms, conditions or limitations to a registration, the Registrar on behalf of the committee shall serve notice of the proposal of the committee, together with written reasons therefor, on the applicant or registrant and a copy thereof to the Board.

Exemptions

(2) Subsection 1 does not apply to a refusal to grant registration to a person who was previously registered and whose registration was suspended or revoked as a result of a decision of a discipline committee.

Notice  
requiring  
hearing or  
review

(3) A notice under subsection 1 shall inform the applicant or registrant that he is entitled to a hearing by the Board or to a review by the Board of his application and documentary evidence in support thereof without oral evidence, if he mails or delivers within fifteen days after the notice under subsection 1 is served on him, notice in writing to the Board requiring a hearing or such review by the Board, as he specifies.

Powers of  
registration  
committee  
where  
hearing  
or review

(4) Where an applicant or registrant does not require a hearing or review by the Board in accordance with subsection 3, the Board shall so notify the registration committee making the proposal and the committee may carry out the proposal stated in its notice under subsection 1.

Findings  
of fact

(5) The findings of fact of the Board pursuant to a hearing or review shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

1971, c. 47

Procedures on  
hearings

(6) The provisions of subsections 2 to 5 and subsections 7 and 8 of section 12 apply *mutatis mutandis* to proceedings before the Board under this section.

Powers of  
Board  
upon hearing  
or review

(7) The Board shall, after the hearing or review,

- (a) confirm the proposed decision of the registration committee; or
- (b) require the registration committee to permit the applicant to take qualifying examinations or additional training as a condition for registration, or both as specified by the registration committee; or
- (c) require the registration committee to direct the Registrar to register the applicant on any appro-

private register subject to such conditions as the Board considers appropriate in cases where the Board finds that the applicant meets the requirements for registration and that the committee has exercised its powers improperly; or

- (d) refer the matter back to the registration committee for further consideration and the Board may make such recommendations as it considers appropriate in the circumstances.

(8) The registration committee and the applicant or Parties registrant are parties to proceedings before the Board under this section.

(9) Any party to proceedings before the Board under this section may appeal from its decision or order to the Supreme Court in accordance with the rules of court and the provisions of section 13 apply *mutatis mutandis* as if it were an appeal from a decision or order of a discipline committee. Appeals

**12.**—(1) In proceedings before the discipline committee of a College, the College and the member of the College whose conduct is being investigated in the proceedings are parties to the proceedings. Parties to discipline proceedings

(2) A member whose conduct is being investigated in proceedings before a discipline committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which shall be given in evidence at the hearing. Examination of documentary evidence

(3) Members of a discipline committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Council considering the referral of the matter to the discipline committee or at a previous hearing of the committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the committee may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law. Members holding hearing not to have taken part in investigation, etc.

(4) Notwithstanding anything in *The Statutory Powers Procedure Act, 1971*, hearings of the discipline committee shall be held *in camera*, but, if the person whose conduct is being investigated requests otherwise by a notice delivered to the Registrar before the day fixed for the hearing, the committee shall conduct the hearing in public except where, *In camera 1971, c. 47*

(a) matters involving public security may be disclosed;  
or

(b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

Recording of  
evidence

(5) The oral evidence taken before a discipline committee shall be recorded and, if so required, copies or a transcript thereof shall be furnished only to the parties at their own cost.

Evidence  
1971, c. 47

(6) Notwithstanding *The Statutory Powers Procedure Act, 1971* nothing is admissible in evidence before a discipline committee that would be inadmissible in a court in a civil case and the findings of a discipline committee shall be based exclusively on evidence admitted before it.

Only members  
at hearing to  
participate  
in decision

(7) No member of a discipline committee shall participate in a decision of the committee pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Release of  
documentary  
evidence

(8) Documents and things put in evidence at a hearing of a discipline committee shall, upon the request of the person who produced them, be released to him by the committee within a reasonable time after the matter in issue has been finally determined.

Appeal to  
court

**13.**—(1) Any party to proceedings before a discipline committee may appeal from its decision or order to the Supreme Court in accordance with the rules of court.

Powers of  
court on  
appeal

(2) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the committee appealed from and may exercise all powers of the committee and may direct the committee or the College to take any action which the committee or the College may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the committee, or the court may refer the matter back to the committee for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Service of  
notice

**14.**—(1) Except where otherwise provided, any notice or document required by this Act to be served may be served personally or by prepaid first class mail addressed to the person to whom notice is to be given at his last known address and, where notice is served by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence,



accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date

(2) Every member of the Health Disciplines Board and of the discipline committee of a College has power to administer oaths and affirmations for the purposes of any of its proceedings.

Admin-  
istering  
oaths

15. Any statement containing information from the records required to be kept by a Registrar under any Part of this Act, purporting to be certified by the Registrar under the seal of the College is admissible in evidence in all courts as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the Registrar and without proof of the seal.

Registrar's  
certificate  
as evidence

16. No action or other proceeding for damages shall be instituted against the Board, a College, a Council, a committee or any member of the Board, Council or committee, or any officers, servants, agents or appointees of the Board, or a College for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Immunity of  
Board,  
College,  
Councils and  
committees

17. No duly registered member of a College is liable to any action arising out of negligence or malpractice in respect of professional services requested or rendered unless such action is commenced within one year from the date when the person commencing the action knew or ought to have known the fact or facts upon which he alleges negligence or malpractice.

Limitation  
for  
malpractice  
actions

18.—(1) Any person who makes or causes to be made any wilful falsification in any matter relating to a register or issues a false certificate or document with respect to registration is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000.

Falsification  
of certificates

(2) Any person who wilfully procures or attempts to procure himself to be registered under this Act by knowingly making any false representation or declaration or by making a fraudulent representation or declaration, either orally or in writing, is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 and every person knowingly aiding and assisting him therein is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000.

Offences for  
false repre-  
sentation

Onus of  
proof  
respecting  
registration

**19.** Where registration under this Act is required to permit the lawful doing of any act or thing, if in any prosecution it is proven that the accused has done such act or thing, the burden of proving that he was so registered under this Act rests upon the accused.

## PART II

### DENTISTRY

Interpre-  
tation

**20.—(1)** In this Part,

- (a) "by-laws" means the by-laws made under this Part;
- (b) "College" means the Royal College of Dental Surgeons of Ontario;
- (c) "Council" means the Council of the College;
- (d) "licence" means a licence for the practice of dentistry issued under this Part;
- (e) "member" means a member of the College;
- (f) "practice of dentistry" means any professional service usually performed by a dentist or a dental surgeon, and includes,
  - (i) the diagnosis or treatment of, and the prescribing, treating or operating for the prevention, alleviation or correction of any disease, pain, deficiency, deformity, defect, lesion, disorder or physical condition of, in or from any human tooth, jaw or adjacent structure or tissue or any injury thereto,
  - (ii) the making, producing, reproducing, constructing, fitting, furnishing, supplying, altering or repairing or prescribing or advising the use of any prosthetic denture, bridge, appliance or thing for any of the purposes indicated in subclause i, to be used in, upon or in connection with any human tooth, jaw or associated structure or tissue or in the treatment of any condition thereof, or replacing, improving or supplementing any human tooth, associated structure or tissue, and
  - (iii) the taking or making, or the giving of advice or assistance or the providing of facilities for



the taking or making of any impression, bite, cast or design preparatory to, or for the purpose of, or with a view to the making, producing, reproducing, constructing, fitting, furnishing, supplying, altering or repairing of any such prosthetic denture, bridge, appliance or thing;

(g) "Registrar" means the Registrar of the College;

(h) "regulations" means the regulations made under this Part.

(2) The practice of dentistry is a health discipline to which this Part applies. Health discipline

**21.**—(1) The Royal College of Dental Surgeons of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part. Royal College of Dental Surgeons continued

(2) The objects of the College are, Objects

(a) to regulate the practice of dentistry and to govern its members in accordance with this Act, the regulations and the by-laws;

(b) to establish, maintain and develop standards of knowledge and skill among its members;

(c) to establish, maintain and develop standards of qualification and practice for the practice of dentistry;

(d) to establish, maintain and develop standards of professional ethics among its members;

(e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act,

in order that the public interest may be served and protected.

**22.**—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject. Membership

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled, subject to the continuing jurisdiction Resignation of membership

of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Cancellation  
for default  
of fees

(3) The Registrar may cancel a licence for non-payment of any fee prescribed by the regulations after giving the member at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Council of  
College

**23.**—(1) The Board of Directors of the College is continued as the Council of the College, which shall be the governing body and board of directors of the College and shall manage and administer its affairs.

Composition  
of Council

(2) The Council shall be composed of,

- (a) not fewer than nine and not more than twelve persons who are members elected in the number and manner determined by the regulations;
- (b) not fewer than three and not more than five persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice and are appointed by the Lieutenant Governor in Council; and
- (c) one person who is appointed by the faculty of dentistry of each university in Ontario that conducts a course in dentistry and is authorized to grant degrees in dentistry, such person to be appointed from among the members of the faculty.

Remunera-  
tion of lay  
members

(3) The persons appointed under clause *b* of subsection 2 shall be paid, out of moneys appropriated therefor by the Legislature, such expenses and remuneration as is determined by the Lieutenant Governor in Council.

Expiration  
of appoint-  
ment

(4) The appointment of every person appointed under subsection 2 expires at the first meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment.

Qualifica-  
tions to  
vote

(5) Every member who,

- (a) practises in Ontario; and
- (b) is not in default of payment of the annual fee prescribed by the regulations,

is qualified to vote at an election of members of the Council.

(6) The Council shall elect a President and Vice-President from among its members President and Vice-President

(7) The Council shall appoint during pleasure a Registrar and such other officers and servants as may from time to time be necessary in the opinion of the Council to perform the work of the College. Registrar, Treasurer, Secretary and staff

(8) A majority of the members of the Council constitute a quorum. Quorum

(9) The members of the Council who were elected under *The Dentistry Act*, being chapter 108 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause *a* of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant. Continuation of Council members under R.S.O. 1970, c. 108

**24.** In addition to his powers and duties under Part I, the Minister may. Powers of Minister

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

**25.** Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations, Regulations

- (a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;
- (b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected, and controverted elections;
- (c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
- (d) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences;



- (*e*) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (*f*) providing for the maintenance and inspection of registers of persons permitted to practise;
- (*g*) governing standards of practice for the profession;
- (*h*) prescribing the records that shall be kept respecting patients;
- (*i*) requiring and providing for the inspection and examination of the office, records and equipment of members in connection with their practice;
- (*j*) regulating the compounding, dispensing and sale of drugs by members and the containers and labelling therefor, prescribing the records that shall be kept and requiring reports to the Minister respecting such compounding, dispensing and sale;
- (*k*) defining classes of specialists in the various branches of dentistry, prescribing the qualifications required, providing for the suspension or revocation of any such designation, and for the regulation and prohibition of the use of terms, titles, or designations by members indicating specialization in any branch of dentistry;
- (*l*) authorizing persons other than members to perform specified acts in the practice of dentistry under the supervision or direction of a member;
- (*m*) prohibiting the practice of dentistry where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (*n*) defining professional misconduct for the purposes of this Part;
- (*o*) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (*p*) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups

or associations of members in respect to their practices;

- (q) respecting the reporting and publication of decisions in disciplinary matters;
- (r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics, for any purpose that may tend to advance scientific knowledge and maintain the standards of practice of dentistry;
- (s) respecting the duties and authority of the Registrar;
- (t) requiring the payment of annual fees by members and fees for licensing, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (u) prescribing forms for the purposes of this Part and providing for their use;
- (v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

**26.** — (1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing. By-laws

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;



- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) prescribing the remuneration of the members of the Council and committees, other than persons appointed by the Lieutenant Governor in Council, and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (h) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (i) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (j) providing for a code of ethics;
- (k) providing for the appointment of inspectors for the purposes of this Part;
- (l) prescribing forms and providing for their use;
- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) respecting membership of the College in any national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

- (r) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

(2) A copy of the by-laws made under subsection 1 and <sup>Idem</sup> amendments thereto,

(a) shall be forwarded to the Minister;

(b) shall be available for public inspection in the office of the College.

(3) Any by-law or resolution signed by all the members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for that purpose. <sup>Signing by-laws and resolutions</sup>

**27.**—(1) Where a prosthetic denture is supplied, altered or repaired by a member or under the supervision of a member as set out in subsection 11 of section 4 of *The Denture Therapists Act, 1974*, the laboratory costs incurred in respect of the supplying, altering or repairing of the prosthetic denture and all fees for services in respect thereof shall be rendered by the member and the account therefor shall show such laboratory costs separately from such fees and separately from all other charges and fees. <sup>Billing for prosthetic dentures 1974, c. ...</sup>

(2) No person is liable to pay an account to which subsection 1 applies until the account is made to comply with the requirements of subsection 1. <sup>Liability for payment</sup>

**28.**—(1) No person shall engage in or hold himself out as engaging in the practice of dentistry unless he is licensed under this Part. <sup>Licence to practise</sup>

(2) For the purposes of subsection 1, proof of the performance of one act in practice of dentistry on one occasion is sufficient to establish engaging in the practice of dentistry. <sup>Proof of practice</sup>

(3) Subsection 1 does not apply to a student of dentistry who practises dentistry within a prescribed training program under the supervision of a member who is physically present. <sup>Exception re students</sup>

(4) Nothing done in the practice of denture therapy or the practice of supervised denture therapy as defined in *The Denture Therapists Act, 1974* by a denture therapist licensed or provisionally licensed thereunder shall be deemed to be a contravention of this section. <sup>Idem</sup>

Conflict  
with other  
health  
discipline

(5) A licence shall be deemed to authorize a member to engage in the practice of dentistry, notwithstanding that any part of such practice is included in the practice of any other health discipline.

Application  
of Part VI

(6) Part VI does not apply in respect of the compounding and dispensing and sale of drugs by a member for his own patients in accordance with this Part and the regulations.

Establish-  
ment of  
committees

**29.**—(1) The Council shall establish and appoint as hereinafter provided the following committees,

- (a) Executive Committee;
- (b) Registration Committee;
- (c) Complaints Committee;
- (d) Discipline Committee,

and may establish such other committees as the Council from time to time considers necessary.

Vacancies

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

Executive  
Committee

**30.**—(1) The Executive Committee shall be composed of the President and Vice-President of the Council and not more than three other members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Quorum

(2) A majority of the members of the Executive Committee constitutes a quorum.

Duties

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.



**31.** — (1) The Registration Committee shall be composed of three persons who are members of the Council, one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council. Registra-  
tion  
Committee

(2) The Council shall name one member of the Registration Committee to be Chairman. Chairman

(3) A majority of the members of the Registration Committee constitutes a quorum. Quorum

**32.** — (1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he proposes to refuse or to which he considers terms, conditions or limitations should be attached. Issuance  
of  
licences

(2) The Registration Committee.

Powers and  
duties of  
Registration  
Committee

(a) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fee therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(b) may exempt an applicant from any licensing requirement.

(3) The Registration Committee may direct the Registrar to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies. Idem

(4) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study, or continuing education as the committee specifies. Review of  
qualifi-  
cations

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to practise dentistry identifying any specialist status and the terms, conditions and limitations attached to the licence, and shall Registers  
of  
licensees

note on the register every revocation, suspension and cancellation of a licence or recognition of specialist status and such other information as the Registration Committee or Discipline Committee directs.

Continuation  
of licences

R.S.O. 1970,  
c. 108

**33.** Every licence issued under *The Dentistry Act*, being chapter 108 of the Revised Statutes of Ontario, 1970, and in effect immediately before this Part comes into force continues in the same manner as if issued under this Part.

Complaints  
Committee

**34.**—(1) The Complaints Committee shall be composed of three persons who are members of the Council, one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.

Idem

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

Chairman

(3) The Council shall name one member of the Complaints Committee to be its Chairman.

Quorum

(4) A majority of the members of the Complaints Committee constitutes a quorum.

Duties

**35.**—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless,

- (a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and
- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(2) The Committee in accordance with the information it receives may,

- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 38; or
- (b) direct that the matter not be referred under clause *a*; or



- (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8 and, where the decision is made under clause *b* of subsection 2, its reasons therefor Decision and reasons

**36.** — (1) The Discipline Committee shall be composed of eight members of the Council of whom two shall be persons appointed to the Council by the Lieutenant Governor in Council. Discipline Committee

(2) The Council shall appoint one of the members of the Discipline Committee to be Chairman. Chairman

(3) The Chairman of the Discipline Committee may assign a panel of five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council. Composition of panels

(4) Three members of a panel assigned under subsection 3, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding at the hearing. Quorum and votes

(5) Where a panel of the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence. Disability of lay member

(6) Notwithstanding section 35, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member. Reference by Council or Executive Committee

**37.** — (1) The Discipline Committee shall, Duties of Discipline Committee

(a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;

(b) hear and determine matters referred to it under section 35, 36 or 39; and

(c) perform such other duties as are assigned to it by the Council.

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall. Idem

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

Professional  
misconduct

(3) A member may be found guilty of professional misconduct by the Committee if,

- (a) he has been found guilty of an offence relevant to his suitability to practise upon proof of such conviction;
- (b) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

Incom-  
petence

(4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice.

Powers of  
Discipline  
Committee

(5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order,

- (a) revoke the licence of the member or withdraw recognition of his specialist status, or both;
- (b) suspend the licence of the member or recognition of his specialist status, or both, for a stated period;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

(6) Where the Discipline Committee is of the opinion <sup>Costs</sup> that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes.

(7) Where the Discipline Committee revokes, suspends or <sup>Stay on appeal for professional misconduct</sup> restricts a licence or recognition of specialist status on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

(8) Where the Discipline Committee revokes, suspends or <sup>Stay on appeal for professional misconduct</sup> restricts the licence or recognition of specialist status of a member on a ground other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned.

(9) Where the Discipline Committee finds a member guilty <sup>Service of decision of Discipline Committee</sup> of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member.

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. <sup>Continuation on expiry of Committee membership</sup>

**38.—**(1) In this section, <sup>Interpretation</sup>

(a) "board of inquiry" means a board of inquiry appointed by the Executive Committee under subsection 2;

(b) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise or that his practice be restricted.

(2) Where the Registrar receives information leading him <sup>Reference to board of inquiry</sup> to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to



the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

**Examination**

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his licence be suspended until he complies.

**Hearing by  
Registration  
Committee**

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and may suspend the member's licence until the determination of the question of his capacity becomes final.

**Parties**

(5) The College, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to the hearing.

**Medical  
evidence**

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

(a) where the evidence is required by the College, at least five days before the hearing commences; and

(b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

**Powers of  
Registration  
Committee**

(7) The Registration Committee shall, after the hearing,

(a) make a finding as to whether or not the member is an incapacitated member; and

(b) where the member is found to be an incapacitated member by order,

- (i) revoke his licence,
- (ii) suspend his licence for such period as the Committee considers appropriate, or
- (iii) attach such terms and conditions to the licence as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Procedures

**39.**—(1) A person whose licence has been revoked or suspended for cause under this Part, or a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or, where the suspension is for more than one year, one year after the suspension. Restoration of licence

(2) The Registrar shall refer the application to the Discipline Committee or, where the revocation or suspension was on the grounds of incapacity, to the Registration Committee which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member. Reference to Discipline Committee

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration except subsection 9 of section 11 apply, *mutatis mutandis*, to proceedings of the Registration Committee and Discipline Committee under this section. Procedures

**40.**—(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence, the Registrar may by order appoint one or more persons to make an investigation to ascertain whether such an act has occurred, and the person appointed shall report the result of his investigation to the Registrar. Investigation of members

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make Powers of investigator



the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation, and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. 49

Obstruction  
of  
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search  
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of  
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Admissi-  
bility  
of copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding

or prosecution as *prima facie* proof of the original book, record or document and its contents.

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or such other Committee as he considers appropriate. Report of Registrar

41.—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 40 and any member of the Council or a Committee, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 40 and shall not communicate any such matters to any other person except, Matters confidential

(a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations;

(b) as may be required for the enforcement of *The Health Insurance Act, 1972*; 1972, c. 91

(c) to his counsel; or

(d) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws. Testimony in civil suit

42.—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit. Restraining orders

(2) An appeal lies to the Supreme Court from an order made under subsection 1. Appeal

## Penalties

**43.**—(1) Every person who is in contravention of section 28 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

## Idem

(2) Every person who, not being a member, uses an occupational designation prescribed by the regulations to be used by members or a like designation is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

## Idem

(3) Any person who obstructs a person appointed to make an investigation under section 40 in the course of his duties is guilty of an offence and on summary conviction is liable to a fine not exceeding \$2,000.

## Repeals

**44.**—(1) *The Dentistry Act*, being chapter 108 of the Revised Statutes of Ontario, 1970, except section 12 thereof, *The Dentistry Amendment Act, 1972*, being chapter 141 and *The Dentistry Amendment Act, 1974*, being chapter . . . , are repealed.

## Idem

(2) For the purposes of section 12 of *The Dentistry Act*, the Council shall be deemed to be the Board referred to therein.

## References

(3) Any reference in any Act or regulation to *The Dentistry Act* shall be deemed to be a reference to this Part.

## PART III

## MEDICINE

Interpre-  
tation

**45.**—(1) In this Part,

- (a) "by-laws" means the by-laws made under this Part;
- (b) "College" means the College of Physicians and Surgeons of Ontario;
- (c) "Council" means the Council of the College;
- (d) "licence" means a licence for the practice of medicine issued under this Part;
- (e) "member" means a member of the College;



- (f) "practice of medicine" includes the practice of surgery and obstetrics;
- (g) "prescribed" means prescribed by the regulations or by-laws made under this Part;
- (h) "Registrar" means the Registrar of the College;
- (i) "regulations" means the regulations made under this Part.

(2) The practice of medicine is a health discipline to which this Part applies. Health discipline

**46.**—(1) The College of Physicians and Surgeons of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part. College of Physicians and Surgeons continued

(2) The objects of the College are, Objects

- (a) to regulate the practice of medicine and to govern its members in accordance with this Act, the regulations and the by-laws;
- (b) to establish, maintain and develop standards of knowledge and skill among its members;
- (c) to establish, maintain and develop standards of qualification and practice for the practice of medicine;
- (d) to establish, maintain and develop standards of professional ethics among its members;
- (e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act;
- (f) such other objects relating to human health care as the Council considers desirable,

in order that the public interest may be served and protected.

**47.**—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject. Membership in the College

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member. Resignation of membership

Cancellation  
for default  
of fees

(3) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the member at least two months notice of the default and intention to cancel subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct as a member.

Council of  
the College

**48.**—(1) The Council of the College is continued and shall be the governing body and board of directors of the College and shall manage and administer its affairs.

Composition  
of Council

(2) The Council shall be composed of,

- (a) one person who is appointed by the faculty of medicine of each university in Ontario that conducts a course in medicine and is authorized to grant degrees in medicine, such person to be appointed from among the members of the faculty;
- (b) not fewer than four and not more than six persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice, and are appointed by the Lieutenant Governor in Council; and
- (c) not fewer than twelve and not more than sixteen persons who are members and are elected by the members in the manner provided by the regulations.

Remuner-  
ation  
of lay  
members

(3) The persons appointed under clause *b* of subsection 2 shall be paid out of moneys appropriated therefor by the Legislature such expenses and remuneration as is determined by the Lieutenant Governor in Council.

Expiration  
of appoint-  
ment

(4) The appointment of every person appointed under subsection 2 expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment.

Qualifi-  
cations  
to vote

(5) Every member who is,

- (a) resident in Ontario;
- (b) licensed to practise medicine and not limited to practising for educational purposes only; and
- (c) not in default of payment of the prescribed annual fee,

is qualified to vote at an election of members of the Council.



(6) The Council shall elect annually a President and Vice-President from among its members. President  
Vice-  
President

(7) The Council shall appoint during pleasure a Registrar and such other officers and servants as may from time to time be necessary or desirable in the opinion of the Council to perform the work of the College. Registrar  
and  
officers

(8) A majority of the members of the Council constitutes a quorum. Quorum

(9) The members of the Council who were elected under *The Medical Act*, being chapter 268 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause c of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant. Con-  
tinuation  
of Council  
members  
under  
R.S.O. 1970,  
c. 268

**49.** In addition to his powers and duties under Part I, the Minister may, Powers of  
Minister

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

**50.** Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations, Regu-  
lations

- (a) fixing the number of members to be elected to the Council and establishing electoral districts for elections;
- (b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected to the Council, and controverted elections;
- (c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;

- (d) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences;
- (e) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (f) providing for the maintenance and inspection of registers of persons permitted to practise and for the issuance of certificates of standing by the Registrar;
- (g) governing standards of practice for the profession;
- (h) defining classes of specialists in the various branches of medicine, prescribing the qualifications required, providing for the suspension or revocation of any such designation, and for the regulation and prohibition of the use of terms, titles, or designations by members indicating specialization in any branch of medicine;
- (i) regulating the compounding, dispensing and sale of drugs by members and the containers and labelling therefor, prescribing the records that shall be kept and requiring reports to the Minister respecting such compounding, dispensing and sale;
- (j) governing the designation of life members of the College and prescribing their rights and privileges;
- (k) authorizing persons other than members to perform specified acts in the practice of medicine under the supervision or direction of a member;
- (l) prohibiting the practice of medicine where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (m) defining professional misconduct for the purposes of this Part;
- (n) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (o) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;

- (p) prescribing the minimum number of members who may constitute a clinic and the minimum range of medical services that shall be provided in a clinic;
- (q) respecting the reporting and publication of decisions in disciplinary matters;
- (r) requiring and providing for the inspection and examination of books, accounts, reports and medical records of members in connection with their practice;
- (s) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (t) respecting the duties and authority of the Registrar;
- (u) requiring the payment of fees by members and fees for licensing, examinations and continuing education, including penalties for late payment and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (v) prescribing forms and providing for their use;
- (w) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

**51.**—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing. By-laws

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;



- (g) respecting the calling, holding and conducting of meetings of the membership of the College;
- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) prescribing forms and providing for their use;
- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) providing for the establishment, maintenance and administration of a benevolent fund for needy practitioners in Ontario and the dependants of deceased members;
- (r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
- (s) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

(2) A copy of the by-laws made under subsection 1 and <sup>Idem</sup> amendments thereto,

(a) shall be forwarded to the Minister;

(b) shall be forwarded to each member; and

(c) shall be available for public inspection in the office of the College.

(3) Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose. <sup>Signing by-law and resolutions</sup>

**52.**—(1) No person shall engage in or hold himself out as engaging in the practice of medicine unless he is licensed under this Part. <sup>Licence to practise</sup>

(2) For the purposes of subsection 1,

<sup>Exceptions</sup>

(a) rendering first aid or temporary assistance in an emergency without fee; or

(b) the administration of household remedies by members of the patient's household,

shall be deemed not to be engaging in the practice of medicine.

(3) Subsection 1 does not apply to a student of medicine engaging in a curriculum of studies at a medical school in a university in Ontario. <sup>Students excepted</sup>

(4) For the purposes of this section, proof of the performance of one act in practice of medicine on one occasion is sufficient to establish engaging in the practice of medicine. <sup>Proof of practice</sup>

(5) A member or person authorized by the regulations may engage in the practice of medicine, notwithstanding that any part of such practice is included in the practice of any other health discipline. <sup>Conflict with other health discipline</sup>

(6) Part VI does not apply in respect of the compounding and dispensing and sale of drugs by a member for his own patients in accordance with this Part and the regulations. <sup>Application of Part VI</sup>

(7) Nothing in this Part shall be construed to affect the treatment of human ailments by the use of prayer or spiritual means in the exercise of a religion in accordance with the tenets of an established church by the members thereof. <sup>Faith healing</sup>

**53.**—(1) The Council shall establish and appoint as herein-after provided the following committees, <sup>Establishment of committees</sup>

(a) Executive Committee;

(b) Registration Committee;



- (c) Complaints Committee;
- (d) Discipline Committee;
- (e) Fitness to Practise Committee,

and may establish such other committees as the Council from time to time considers necessary.

Medical  
Review  
Committee  
1972, c. 91

(2) The Council may give the Medical Review Committee established under *The Health Insurance Act, 1972*, such other duties as the Council considers appropriate and that are not inconsistent with its duties under that Act.

Vacancies

(3) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

Executive  
Committee

**54.**—(1) The Executive Committee shall be composed of,

- (a) the President, who shall be Chairman of the Committee;
- (b) the Vice-President; and
- (c) three persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Quorum

(2) A majority of the members of the Executive Committee constitutes a quorum.

Duties

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

Regist-  
ration  
Committee

**55.**—(1) The Registration Committee shall be composed of,

- (a) one member of the Council who was appointed to the Council by a university;
- (b) two members of the Council who were elected to the Council;
- (c) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council; and
- (d) the President and Vice-President, *ex officio*.

(2) The Council shall name one member of the Registration Chairman Committee to be Chairman.

(3) A majority of the members of the Registration Committee constitutes a quorum.

**56.** (1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he proposes to refuse or to which he considers terms, conditions or limitations should be attached. Issuance of licences

(2) The Registration Committee, Powers and duties of Registration Committee

(a) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(b) may exempt an applicant from any licensing requirement

(3) The Registration Committee may direct the Registrar Idem to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies.

(4) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies. Review of qualifications

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to practise medicine, identifying any specialist status and the terms, conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation of a licence or recognition of specialist status and such other information as the Registration Committee or Discipline Committee directs. Registers of licensees

(6) Every licence issued under *The Medical Act*, being chapter 268 of the Revised Statutes of Ontario, 1970 and in effect immediately before this Part comes into force continues in the same manner as if issued under this Part. Continuation of licences R.S.O. 1970, c. 268

**57.** — (1) The Complaints Committee shall be composed of, Complaints Committee

(a) two persons who are members of the College;

(b) one member of the Council who was appointed to the Council by a university;

(c) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

Idem

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

Chairman

(3) The Council shall name one member of the Complaints Committee to be its Chairman.

Quorum

(4) A majority of the members of the Complaints Committee constitutes a quorum.

Duties

**58.**—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless,

(a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(2) The Committee in accordance with the information it receives may,

(a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 62; or

(b) direct that the matter not be referred under clause *a*; or

(c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.

Decision  
and  
reasons

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8 and, where the decision is made under clause *b* of subsection 2, its reasons therefor.

Discipline  
Committee

**59.**—(1) The Discipline Committee shall be composed of ten members of the Council of whom two shall be persons appointed to the Council by the Lieutenant Governor in Council.



(2) The Council shall appoint one of the members of the <sup>Chairman</sup> Discipline Committee to be Chairman.

(3) The Chairman of the Discipline Committee may assign <sup>Composition of panels</sup> a panel of five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

(4) Where a panel of the Discipline Committee commences <sup>Disability of lay member</sup> a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

(5) Three members of a panel assigned under subsection 3, <sup>Quorum and votes</sup> of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding at the hearing, but in the event of a tie vote the chairman shall have a second or casting vote.

(6) Notwithstanding section 58, the Council or the Executive <sup>Reference by Council or Executive Committee</sup> Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member.

**60.** — (1) The Discipline Committee shall,

<sup>Duties of Discipline Committee</sup>

- (a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;
- (b) hear and determine matters referred to it under section 58, 59 or 63; and
- (c) perform such other duties as are assigned to it by the Council.

(2) In the case of hearings into allegations of professional <sup>idem</sup> misconduct or incompetence, the Discipline Committee shall,

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

Profes-  
sional  
misconduct

(3) A member may be found guilty of professional misconduct by the Committee if,

- (a) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;
- (b) if his rights or privileges under the *Narcotic Control Act* (Canada) or the *Food and Drugs Act* (Canada) or the regulations under either of them have been restricted or withdrawn, unless by his own request, upon proof thereof;
- (c) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

In-  
competence

(4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice.

Powers of  
Discipline  
Committee

(5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order,

- (a) revoke the licence of the member, or withdraw recognition of his specialist status, or both;
- (b) suspend the licence of the member or recognition of his specialist status, or both, for a stated period;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

Costs

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes.



(7) Where the Discipline Committee revokes, suspends or restricts a licence or recognition of specialist status on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision Stay on appeal for incompetence

(8) Where the Discipline Committee revokes, suspends or restricts the licence or recognition of specialist status of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned. Stay on appeal for professional misconduct

(9) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member Service of decision of Discipline Committee

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. Continuation on expiry of Committee membership

**61.**—(1) The Fitness to Practise Committee shall be composed of twelve persons, of whom at least four shall be members of the Council and eight may be members of the College who are not members of the Council. Fitness to Practise Committee

(2) The Council shall appoint one of the members of the Fitness to Practise Committee who is a member of the Council to be chairman of the Committee. Chairman

(3) The chairman of the Fitness to Practise Committee may assign a panel of three members to hold a hearing, of whom at least one shall be a member who is a member of the Council, and such panel constitutes a quorum of the Committee for a hearing. Composition of panels and quorum

(4) All decisions of the Fitness to Practise Committee require the vote of a majority of the members presiding at the hearing. Votes

**62.**—(1) In this section,

Interpretation

(a) "board of inquiry" means a board of inquiry appointed by the Executive Committee under subsection 2.

- (b) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise or that his practice be restricted.

Reference  
to board of  
inquiry

(2) Where the Registrar receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Examination

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his licence be suspended until he complies.

Hearing by  
Fitness to  
Practise  
Committee

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Fitness to Practise Committee to hold a hearing and may suspend the member's licence until the determination of the question of his capacity becomes final.

Parties

(5) The College, the person whose capacity is being investigated and any other person specified by the Fitness to Practise Committee are parties to the hearing.

Medical  
evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

- (a) where the evidence is required by the College, at least five days before the hearing commences; and
- (b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

(7) The Fitness to Practise Committee shall, after the hearing, Powers of  
Fitness to  
Practise  
Committee

(a) make a finding as to whether or not the member is an incapacitated member; and

(b) where the member is found to be an incapacitated member, by order,

(i) revoke his licence,

(ii) suspend his licence for such period as the Committee considers appropriate, or

(iii) attach such terms and conditions to the licence as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Fitness to Practise Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Procedures

**63.**—(1) A person whose licence has been revoked or suspended for cause under this Part, or under a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or, where the suspension is for a period of more than one year, one year after the suspension. Restoration  
of licence

(2) The Registrar shall refer the application to the Discipline Committee, or, when the revocation or suspension was on the grounds of incapacity, to the Fitness to Practise Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member. Reference to  
Discipline  
Committee

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except Procedures



subsection 9 of section 11, apply, *mutatis mutandis*, to proceedings of the Fitness to Practise Committee and Discipline Committee under this section.

Direction  
by Council  
to issue  
licence

(4) Notwithstanding subsections 1, 2 and 3, the Council or the Executive Committee may direct at any time that a licence be issued to a person whose licence has previously been revoked for cause or a suspension for cause be removed, subject to such terms, conditions or limitations as the Council or Executive Committee, as the case may be, considers appropriate.

Investiga-  
tion of  
members

**64.**—(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence the Registrar may, with the approval of the Executive Committee, by order appoint one or more persons to make an investigation to ascertain whether such act has occurred, and the person appointed shall report the result of his investigation to the Registrar.

Powers of  
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. 49

Obstruction  
of  
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search  
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investiga-

tion, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated. Removal of books, etc.

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents. Admissibility of copies

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or to such other committee as he considers appropriate. Report of Registrar

**65.—**(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 64, and any member of the Council or a Committee, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 64 and shall not communicate any such matters to any other person except, Matters confidential

(a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations; or

(b) as may be required for the enforcement of *The Health Insurance Act, 1972*; 1972, c. 91



(c) to his counsel; or

(d) with the consent of the person to whom the information relates.

Testimony  
in civil  
suit

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws.

Restraining  
orders

**66.**—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

Penalties

**67.**—(1) Every person who is in contravention of section 52 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Idem

(2) Every person who not being a member uses an occupational designation prescribed by the regulations to be used by members or a like designation is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

Idem

(3) Any person who obstructs a person appointed to make an investigation under section 64 in the course of his duties is guilty of an offence and on summary conviction is liable to a fine not exceeding \$2,000.

Repeals

**68.**—(1) *The Medical Act*, being chapter 268 of the Revised Statutes of Ontario, 1970, and *The Medical Amendment Act*, 1973, being chapter 129, are repealed.

References

(2) Any reference in any Act or regulation to *The Medical Act* shall be deemed to be a reference to this Part.

## PART IV

## NURSING

**69.**—(1) In this Part,Interpre-  
tation

- (a) "by-laws" means the by-laws made under this Part;
- (b) "certificate" means a current certificate issued under this Part authorizing the holder to hold himself out as competent to practise as a registered nurse or registered nursing assistant;
- (c) "College" means the College of Nurses of Ontario;
- (d) "Council" means the Council of the College;
- (e) "Director" means the Director of the College;
- (f) "member" means a member of the College;
- (g) "register" means a register maintained by the Director under this Part, and "registered" and "registration" have corresponding meanings;
- (h) "registered nurse" and "registered nursing assistant" means a person who is the holder of a certificate as a registered nurse or registered nursing assistant, respectively;
- (i) "regulations" means the regulations made under this Part.

(2) The performance of nursing services by a registered nurse or a registered nursing assistant is a health discipline to which this Part applies.

**70.**—(1) The College of Nurses of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

Objects

(2) The objects of the College are,

- (a) to regulate the practice of nursing and to govern its members in accordance with this Act, the regulations and the by-laws;
- (b) to establish, maintain and develop standards of knowledge and skill among its members;

- (c) to establish, maintain and develop standards of qualification and practice for the practice of nursing;
- (d) to establish, maintain and develop standards of professional ethics among its members;
- (e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act;
- (f) such other objects relating to human health care as the Council considers desirable,

in order that the public interest may be served and protected.

Membership  
in the  
College

**71.**—(1) Every person who is the holder of a certificate is a member of the College subject to any term, condition or limitation to which his certificate is subject.

Resignation  
of member-  
ship

(2) A member may resign his membership by filing with the Director his resignation in writing and his certificate is thereupon cancelled, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Cancellation  
for default  
of fees

(3) The Director may cancel a certificate for non-payment of any prescribed fee after giving the member at least one month's notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Council of  
the College

**72.**—(1) The Council of the College is continued and shall be the governing body and board of directors of the College and shall manage and administer its affairs.

Composition  
of Council

(2) The Council shall be composed of,

- (a) not fewer than eighteen and not more than twenty-five persons, consisting of registered nurses and registered nursing assistants in the proportions determined by the regulations, who are resident or employed in Ontario and are elected by the members in the manner provided by the regulations; and
- (b) not fewer than six and not more than eight persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice, and who are appointed by the Lieutenant Governor in Council.

Remunera-  
tion of lay  
appointees

(3) The persons appointed under clause *b* of subsection 2 shall be paid out of moneys appropriated therefor by the Legislature such expenses and remuneration as is determined by the Lieutenant Governor in Council.



(4) The appointment of every person appointed under subsection 2 expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment.

Expiration  
of appoint-  
ment

(5) Every member who is,

Qualifica-  
tions to  
vote

(a) resident or employed in Ontario; and

(b) not in default of payment of the annual fee pre-  
scribed by the regulations,

is qualified to vote at an election of members of the Council.

(6) The Council shall elect annually a President and Vice-President from among its members.

President  
and Vice-  
President

(7) The Council shall appoint during pleasure a Director and such other officers as may from time to time be necessary in the opinion of the Council to perform the work of the College and the Director shall be deemed to be the Registrar for the purposes of Part I.

Director  
and staff

(8) The Council shall meet at least twice a year.

Meetings  
of Council

(9) A majority of the members of the Council constitutes a quorum.

Quorum

(10) The members of the Council who were elected under *The Nurses Act*, being chapter 301 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause a of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant.

Continuation  
of Council  
members  
under  
R.S.O. 1970,  
c. 301

**73.** In addition to his powers and duties under Part I, the Minister may,

Powers of  
Minister

(a) review the activities of the Council;

(b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;

(c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

## Regulations

**74.** Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

- (a) fixing the number of members to be elected to the Council, the proportions thereof who shall be registered nurses and registered nursing assistants and establishing the regional and other representation for elections;
- (b) respecting and governing the nomination, election and term of office of the members to be elected to the Council, the filling of vacancies on the Council and controverted elections;
- (c) respecting any matter ancillary to the provisions of this Part with regard to the issuing, renewal, suspension and revocation of certificates;
- (d) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;
- (e) providing for the maintenance and inspection of registers;
- (f) governing standards of practice for the profession;
- (g) prohibiting the practice of nursing by members where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (h) defining professional misconduct for the purposes of this Part;
- (i) providing for a program for the continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (j) respecting the reporting and publication of decisions in disciplinary matters;
- (k) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (l) respecting the duties and authority of the Director;
- (m) requiring the payment of annual fees by members and fees for certification and examinations, and prescribing the amounts thereof;



- (n) prescribing forms and providing for their use;
- (o) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

**75.**—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing, By-laws

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) respecting the calling, holding and conducting of meetings of the membership of the College;
- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) prescribing forms and providing for their use;

- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
- (r) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

Distribution  
of by-laws

- (2) A copy of the by-laws made under subsection 1 and amendments thereto,
  - (a) shall be forwarded to the Minister;
  - (b) shall be forwarded to each member; and
  - (c) shall be available for public inspection in the office of the College.

Use of  
titles

**76.**—(1) No person shall hold himself out as competent to practise as a registered nurse or as a registered nursing assistant or otherwise as the holder of a certificate under this Part unless such person is the holder of the appropriate certificate under this Part.

Idem

(2) No person shall use the title "registered nurse" or the designation "Reg.N." or "R.N." or other designation representing the title unless such person is the holder of a certificate as a registered nurse under this Part.

Idem

(3) No person shall use the title "registered nursing assistant" or the designation "R.N.A." or other designation representing the title unless such person is the holder of a certificate as a registered nursing assistant under this Part.

Establish-  
ment of  
committees

**77.**—(1) The Council shall establish and appoint as herein-after provided the following committees,

- (a) Executive Committee;
- (b) Registration Committee;

(c) Complaints Committee;

(d) Discipline Committee,

and the appointments thereto shall include representation of both registered nurses and registered nursing assistants

(2) The Council may establish such other committees as the <sup>Other</sup> Council from time to time considers necessary. <sup>Committees</sup>

(3) Where one or more vacancies occur in the membership <sup>Vacancies</sup> of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

**78.**—(1) The Executive Committee shall be composed of, <sup>Executive</sup> <sup>Committee</sup>

(a) the President, who shall be chairman of the Committee;

(b) the Vice-President; and

(c) three persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) The Executive Committee shall perform such functions <sup>Duties</sup> of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

(3) A majority of the members of the Executive Committee <sup>Quorum</sup> constitutes a quorum.

**79.**—(1) The Registration Committee shall be composed <sup>Registration</sup> <sup>Committee</sup> of nine persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) The Council shall name one member of the Registration <sup>Chairman</sup> Committee to be Chairman.

(3) A majority of the members of the Registration Com- <sup>Quorum</sup> mittee constitutes a quorum.

(4) The Registration Committee shall submit an annual <sup>Reports</sup> report of its activities to the Council and may make such other reports to the Council and Executive Committee as it considers appropriate.



Issuance of  
certificates

**80.**—(1) The Director shall issue a certificate or renewal thereof to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Director shall refer to the Registration Committee every application for a certificate or renewal thereof that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

Powers and  
duties of  
Registration  
Committee

(2) The Registration Committee,

(a) shall determine the eligibility of applicants for certificates or renewals thereof and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(b) may exempt an applicant from any requirement for certification.

Conditions of  
certificates

(3) The Registration Committee may direct the Director to issue or refuse to issue certificates and renewals or to issue certificates and renewals subject to such terms, conditions and limitations as the Committee specifies.

Refusal  
to renew

(4) For the purposes of Part I, a refusal to renew a certificate shall be deemed to be a refusal to grant the certificate.

Review of  
qualifi-  
cations

(5) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on his certificate pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

## Registers

(6) The Director shall maintain one or more registers in which is entered every person to whom a certificate has been issued identifying the terms, conditions and limitations attached to the certificate or the registration and every revocation, suspension, cancellation and expiration or other termination and every renewal of the certificate and such other information as the Registration Committee or Discipline Committee directs.

Continuance  
of registra-  
tion under  
R.S.O. 1970,  
c. 301

(7) Every person who was registered as a registered nurse or a registered nursing assistant under *The Nurses Act* being chapter 301 of the Revised Statutes of Ontario, 1970, immediately before this Part comes into force shall be deemed to be the holder of a certificate under this Part until it expires or is revoked, suspended or cancelled under this Part.

Complaints  
Committee

**81.**—(1) The Complaints Committee shall be composed of five persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee. Membership  
in other  
Committees

(3) The Council shall name one member of the Complaints Committee to be its Chairman. Chairman

(4) Three members of the Complaints Committee constitute a quorum. Quorum

**82.**—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless, Duties

(a) a written complaint has been filed with the Director and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

(2) The Committee in accordance with the information it receives may, Idem

(a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 85; or

(b) direct that the matter not be referred under clause a; or

(c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Director for the purposes of section 8 and, where the decision is made under clause b of subsection 2, its reasons therefor. Decision  
and  
reasons

**83.**—(1) The Discipline Committee shall be composed of ten persons who are members of the Council, of whom two shall be persons appointed to the Council by the Lieutenant Governor in Council. Discipline  
Committee

(2) Five or more members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum, and all disciplinary decisions require the vote of a majority of the members of the Discipline Committee present at the meeting. Quorum  
and votes



Disability  
of lay  
member

(3) Where the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

Chairman

(4) The Council shall name one member of the Discipline Committee to be its chairman.

Reference by  
Council or  
Executive  
Committee

(5) Notwithstanding section 82, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member.

Duties of  
Discipline  
Committee

**84.—(1)** The Discipline Committee shall,

- (a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;
- (b) hear and determine matters referred to it under section 82, 83 or 86; and
- (c) perform such other duties as are assigned to it by the Council.

Idem

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall,

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

Professional  
misconduct

(3) A member may be found guilty of professional misconduct by the Committee if,

- (a) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;
- (b) he is in contravention of subsection 1 of section 76; or
- (c) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

(4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice. Incompetence

(5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order, Powers of Discipline Committee

- (a) revoke the certificate of the member;
- (b) suspend the certificate of the member for a stated period;
- (c) impose such restrictions on the certificate of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes. Costs

(7) Where a certificate is suspended or restricted for a period under subsection 5, the suspension or restriction applies in respect of any renewal or right to renewal of the certificate for the duration of the period. Expiration of suspended or restricted certificate

(8) Where the Discipline Committee revokes, suspends or restricts a certificate on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Stay on appeal for incompetence

(9) Where the Discipline Committee revokes, suspends or restricts the certificate of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned. Stay on appeal for professional misconduct

(10) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member. Service of decision of Discipline Committee

Continuation  
on expiry of  
Committee  
membership

(11) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

Interpre-  
tation

**85.**—(1) In this section,

- (a) “board of inquiry” means a board of inquiry appointed by the Executive Committee under subsection 2;
- (b) “incapacitated member” means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise or that his practice be restricted.

Reference  
to board of  
inquiry

(2) Where the Director receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Examination

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his certificate be suspended until he complies.

Hearing by  
Registration  
Committee

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and may suspend the member's certificate until the determination of the question of his capacity becomes final.

Parties

(5) The board of inquiry, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to the hearing.

Medical  
evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but,



when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

- (a) where the evidence is required by the College, at least five days before the hearing commences; and
- (b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

- (7) The Registration Committee shall, after the hearing, Powers of  
Registration  
Committee
- (a) make a finding as to whether or not the member is an incapacitated member; and
  - (b) where the member is found to be an incapacitated member, by order,
    - (i) revoke his certificate,
    - (ii) suspend his certificate for such period as the Committee considers appropriate, or
    - (iii) attach such terms and conditions to the certificate as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Procedures

**86.**—(1) A person whose certificate has been revoked or suspended for cause under this Part, or registration has been suspended or cancelled for cause under a predecessor of this Part, may apply in writing to the Director for the issuance of a certificate or removal of the suspension, but such application shall not be made sooner than one year after the revocation or cancellation, or where the suspension is for more than one year, one year after the suspension. Restoration  
of registra-  
tion or  
certificate

(2) The Director shall refer the application to the Discipline Committee, or where the revocation or suspension was on the grounds of incapacity, to the Registration Committee, which Reference to  
Discipline  
Committee

shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member.

**Procedures**

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 9 of section 11, apply, *mutatis mutandis*, to proceedings of the Registration Committee and Discipline Committee under this section.

**Duties of employers of registered nurses**

**87.** Every person, other than a patient, who employs a person as a registered nurse or registered nursing assistant and every agency or registry that procures employment for a person as a registered nurse or registered nursing assistant,

(a) shall ensure that such person is the holder of an appropriate certificate under this Part; and

(b) shall report to the College any termination of such employment for reasons purporting to constitute professional misconduct, incompetence or incapacity.

**Restraining orders**

**88.**—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

**Appeal**

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

**Penalties**

**89.**—(1) Every person who is in contravention of section 76 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

**Idem**

(2) Every person who is in contravention of section 87 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

**Repeals**

**90.**—(1) *The Nurses Act*, being chapter 301 of the Revised Statutes of Ontario, 1970 and *The Nurses Amendment Act, 1973*, being chapter 30, are repealed.

**References**

(2) Any reference in any Act or regulation to *The Nurses Act* shall be deemed to be a reference to this Part.



## PART V

## OPTOMETRY

**91.—(1)** In this Part,

Interpre-  
tation

(a) "by-laws" means the by-laws made under this Part;

(b) "College" means the College of Optometrists of Ontario;

(c) "Council" means the Council of the College;

(d) "licence" means a licence for the practice of optometry issued under this Part;

(e) "member" means a member of the College;

(f) "practice of optometry" means the services usually performed by an optometrist, including the measurement and assessment of vision, other than by the use of drugs, except such drugs for such purposes as are prescribed by the regulations, the prescribing and dispensing of ophthalmic appliances, and prescribing and providing orthoptics for the relief or correction of any visual or muscular error or defect of the eye;

(g) "Registrar" means the Registrar of the College;

(h) "regulations" means the regulations made under this Part.

(2) The practice of optometry is a health discipline to which this Part applies.

Health  
discipline

**92.—(1)** The College of Optometrists of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

College of  
Optometrists  
of Ontario  
continued

(2) The objects of the College are,

Objects

(a) to regulate the practice of optometry and to govern its members in accordance with this Act, the regulations and the by-laws;

(b) to establish, maintain and develop standards of knowledge and skill among its members;

(c) to establish, maintain and develop standards of qualification and practice for the practice of optometry;

(d) to establish, maintain and develop standards of professional ethics among its members;

(e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act,

in order that the public interest may be served and protected.

Membership  
in the  
College

**93.**—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject.

Resignation of  
membership

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Cancellation  
for default  
of fees

(3) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the member at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Council of  
the College

**94.**—(1) The Board of Directors of the College is continued as the Council of the College which shall be the governing body and board of directors of the College and shall manage and administer its affairs.

Composition  
of Council

(2) The Council shall be composed of,

(a) one person who is appointed by the University of Waterloo from the faculty of the School of Optometry;

(b) three persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice and are appointed by the Lieutenant Governor in Council; and

(c) six persons who are members and are elected by the members in the manner provided by the regulations.

Remuneration  
of lay  
appointees

(3) The persons appointed under clause *b* of subsection 2 shall be paid out of moneys appropriated therefor by the Legislature such expenses and remuneration as is determined by the Lieutenant Governor in Council.

(4) The appointment of every person appointed under subsection 2 shall be for a term not exceeding three years, and a person whose appointment expires is eligible for re-appointment.

Expiration of  
appointment

(5) Every member who is,

Qualifications  
to vote

(a) resident in Ontario; and

(b) not in default of payment of the annual fee prescribed by the regulations,

is qualified to vote at an election of members of the Council.

(6) The Council shall elect annually a President and Vice-President from among its members.

President  
and Vice-  
President

(7) The Council shall appoint during pleasure a Registrar, Treasurer, Secretary and such other officers and servants as may from time to time be necessary in the opinion of the Council to perform the work of the College.

Registrar,  
Treasurer,  
Secretary  
and staff

(8) A majority of the members of the Council constitutes a quorum.

Quorum

(9) The members of the Council who were elected under *The Optometry Act*, being chapter 335 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause c of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant.

Continuation  
of Council  
members  
under  
R.S.O. 1970,  
c. 335

**95.** In addition to his powers and duties under Part I, the Minister may,

Powers of  
Minister

(a) review the activities of the Council;

(b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;

(c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

**96.** Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

Regulations



- (a) establishing electoral districts for the purposes of the election of members to the Council and respecting and governing the qualifications, nomination, election and term of office of the members to be elected, and controverted elections;
- (b) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
- (c) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences;
- (d) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (e) providing for the maintenance and inspection of registers of persons permitted to practise;
- (f) governing standards of practice for the profession;
- (g) prescribing drugs that may be used in the practice of optometry for such purposes as are specified;
- (h) providing for the designation of life members of the College and prescribing their rights and privileges;
- (i) authorizing persons other than members to perform specified acts in the practice of optometry under the supervision or direction of a member;
- (j) prohibiting the practice of optometry where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (k) defining professional misconduct for the purposes of this Part;
- (l) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (m) providing for the establishment and operation of an appraisal committee for the purposes of examining and assessing the standard of practice in the profession and reporting thereon to the Council and examining and assessing the standards of practice, qualifications and continuing education of members and making recommendations to the Registration Committee thereon;

- (n) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
- (o) respecting the reporting and publication of decisions in disciplinary matters;
- (p) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (q) respecting the duties and authority of the Registrar;
- (r) requiring and providing for the inspection and examination of the office, records and equipment of members in connection with their practice;
- (s) prescribing the records that shall be kept respecting patients;
- (t) requiring the payment of annual fees by members and fees for licensing, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (u) prescribing forms and providing for their use;
- (v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

**97.**—(1) The Council may pass by-laws relating to the <sup>By-laws</sup> administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing,

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;



- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) respecting the calling, holding and conducting of meetings of the membership of the College;
- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) prescribing forms and providing for their use;
- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(r) providing for the appointment of inspectors for the purposes of this Part;

(s) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

(2) A by-law is effective when it is passed by the Council but expires with the close of the next annual meeting of members of the College held after its passing, unless it is confirmed by the meeting. Confirmation of by-laws

(3) A copy of the by-laws made under subsection 1 and amendments thereto, Distribution of by-laws

(a) shall be forwarded to the Minister;

(b) shall be forwarded to each member; and

(c) shall be available for public inspection in the office of the College.

**98.**—(1) No person shall engage in or hold himself out as engaging in the practice of optometry unless he is licensed under this Part. Licence to practise

(2) Subsection 1 does not apply to, Exceptions

(a) a student enrolled in the School of Optometry at the University of Waterloo who practices optometry as required by the curriculum under the supervision of a member of the faculty or a member of the College;

(b) an applicant for a licence under this Part who practises optometry under the personal supervision of a member of the College for the purpose of completing qualifying studies or clinical experience required under this Part.

(3) For the purposes of subsection 1, proof of the performance of one act in the practice of optometry on one occasion is sufficient to establish engaging in the practice of optometry. Proof of practice

(4) A member or person authorized by the regulations may engage in the practice of optometry, notwithstanding that any part of such practice is included in the practice of any other health discipline. Conflict with other health discipline

**99.** No member shall use drugs in his practice, except such drugs for such purposes as are prescribed by the regulations. Use of certain drugs prohibited

Establish-  
ment of  
committees

**100.**—(1) The Council shall establish and appoint as hereinafter provided the following committees,

- (a) Executive Committee;
- (b) Registration Committee;
- (c) Complaints Committee;
- (d) Discipline Committee,

and may establish such other committees as the Council from time to time considers necessary.

Vacancies

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

Executive  
Committee

**101.**—(1) The Executive Committee shall be composed of three persons who are members of the Council of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Quorum

(2) Two members of the Executive Committee constitute a quorum.

Duties

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

Registration  
Committee

**102.**—(1) The Registration Committee shall be composed of,

- (a) two members of the Council of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council; and
- (b) two members of the College of whom one shall be a member of the faculty of the School of Optometry of the University of Waterloo.

Chairman

(2) The Council shall name one member of the Registration Committee to be chairman.

Quorum

(3) A majority of the members of the Registration Committee constitutes a quorum.

Issuance of  
licences

**103.**—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Part and the regula-



tions and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

(2) The Registration Committee,

Powers and  
duties of  
Registration  
Committee

(a) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(b) may exempt an applicant from any licensing requirement.

(3) The Registration Committee may direct the Registrar <sup>Idem</sup> to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies.

(4) The Registration Committee may review the qualifications of any member and may impose a term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies. <sup>Review of qualifications</sup>

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to practise optometry, identifying the terms, conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation of a licence and such other information as the Registration Committee or Discipline Committee directs. <sup>Registers of licensees</sup>

(6) Every person who was registered as an optometrist under *The Optometry Act*, being chapter 335 of the Revised Statutes of Ontario, 1970, immediately before this Part comes into force shall be deemed to be the holder of a licence under this Part for the unexpired portion of the term of the registration, unless sooner revoked, suspended or cancelled under this Part. <sup>Continuance of registration under R.S.O. 1970, c. 335</sup>

**104.**—(1) The Complaints Committee shall be composed of, <sup>Complaints Committee</sup>

(a) three persons who are members of the College;

(b) two persons who are members of the Council one of whom was appointed to the Council by the Lieutenant Governor in Council.

- Idem** (2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.
- Chairman** (3) The Council shall name one member of the Complaints Committee to be its Chairman.
- Quorum** (4) Three members of the Complaints Committee constitute a quorum.
- Duties** **105.**—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless,
- (a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and
  - (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.
- Idem** (2) The Committee in accordance with the information it receives may,
- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 108; or
  - (b) direct that the matter not be referred under clause *a*; or
  - (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.
- Decision and reasons** (3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8 and, where the decision is made under clause *b* of subsection 2, its reasons therefor.
- Discipline Committee** **106.**—(1) The Discipline Committee shall be composed of,
- (a) three persons who are members of the College;
  - (b) three persons who are members of the Council, two of whom were appointed to the Council by the Lieutenant Governor in Council.
- Quorum and votes** (2) Three or more members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum, and



all disciplinary decisions require the vote of a majority of the members of the Discipline Committee present at the meeting.

3. Where a panel of the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence. Disability of lay member

(4) The Council shall name one member of the Discipline Committee to be its chairman. Chairman

(5) Notwithstanding section 105, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member. Reference by Council or Executive Committee

**107.**—(1) The Discipline Committee shall,

Duties of  
Discipline  
Committee

(a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;

(b) hear and determine matters referred to it under sections 105, 106 or 109; and

(c) perform such other duties as are assigned to it by the Council.

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall, Idem

(a) consider the allegations, hear the evidence and ascertain the facts of the case;

(b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;

(c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;

(d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

Professional  
misconduct

(3) A member may be found guilty of professional misconduct by the Committee if,

- (a) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;
- (b) he is in contravention of section 99; or
- (c) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

## Incompetence

(4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice.

Powers of  
Discipline  
Committee

(5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order,

- (a) revoke the licence of the member;
- (b) suspend the licence of the member for a stated period;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

## Costs

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes.

(7) Where the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Stay on appeal for incompetence

(8) Where the Discipline Committee revokes, suspends or restricts the licence of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned. Stay on appeal for professional misconduct

(9) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member. Service of decision of Discipline Committee

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. Continuation on expiry of Committee membership

**108.—**(1) In this section,

Interpretation

(a) "board of inquiry" means a board of inquiry appointed by the Executive Committee under subsection 2;

(b) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise or that his practice be restricted.

(2) Where the Registrar receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter. Reference to board of inquiry

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit Examination



to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his licence be suspended until he complies.

Hearing by  
Registration  
Committee

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and may suspend the member's licence until the determination of the question of his capacity becomes final.

Parties

(5) The College, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to the hearing.

Medical  
evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

(a) where the evidence is required by the College, at least five days before the hearing commences; and

(b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

Powers of  
Registration  
Committee

(7) The Registration Committee shall, after the hearing,

(a) make a finding as to whether or not the member is an incapacitated member; and

(b) where the member is found to be an incapacitated member, by order,

(i) revoke his licence,

(ii) suspend his licence for such period as the Committee considers appropriate, or

(iii) attach such terms and conditions to the licence as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the order. Procedures

**109.** (1) A person whose licence has been revoked or suspended for cause under this Part, or registration has been suspended or cancelled for cause under a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or cancellation or, where the suspension is for more than one year, one year after the suspension. Restoration of licence

(2) The Registrar shall refer the application to the Discipline Committee, or where the revocation or suspension was on the grounds of incapacity to the Registration Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member. Reference to Discipline Committee

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 9 of section 11 apply, *mutatis mutandis*, to proceedings of the Registration Committee and Discipline Committee under this section. Procedures

**110.**—(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence, the Registrar may by order appoint one or more persons to make an investigation to ascertain whether such an act has occurred, and the person appointed shall report the result of his investigation to the Registrar. Investigation of members

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation Powers of investigator



is being made and may, upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation, and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. 49

Obstruction  
of  
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search  
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of  
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Admissibility  
of copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or to such other committee as he considers appropriate. Report of Registrar

**111.**—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 110 and any member of the Council or a Committee shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 110 and shall not communicate any such matters to any other person except. Matters confidential

(a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations;

(b) as may be required for the enforcement of *The Health Insurance Act, 1972*; 1972, c. 91

(c) to his counsel; or

(d) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws. Testimony in civil suit

**112.**—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit. Restraining orders

(2) An appeal lies to the Supreme Court from an order made under subsection 1. Appeal

**113.**—(1) Nothing in this Part applies to the practice of ophthalmic dispensing by an ophthalmic dispenser registered under *The Ophthalmic Dispensers Act*. Exemption under R.S.O. 1970, c. 334

Retail  
merchants

(2) Nothing in this Part prevents,

- (a) the sale of protective glasses for industrial purposes, coloured glasses not embodying any ophthalmic lens, goggles or simple magnifying glasses not sold or divided for the relief or correction of any visual or muscular error or defect of the eye; or
- (b) the sale or offering for sale by a retail merchant at his place of business of spectacles or eyeglasses,

but the Lieutenant Governor in Council may make regulations governing or restricting the sale or offering for sale referred to in clause *b* and prescribing the terms and conditions thereof and designating the nature and kind of spectacles and eyeglasses that may be sold under this subsection.

Penalties

**114.**—(1) Every person who is in contravention of section 98 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Idem

(2) Every person who, not being a member, uses an occupational designation prescribed by the regulations to be used by members or a like designation is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

Idem

(3) Any person who obstructs a person appointed to make an investigation under section 110 in the course of his duties is guilty of an offence and on summary conviction is liable to a fine not exceeding \$2,000.

Act,  
repealed

**115.**—(1) *The Optometry Act*, being chapter 335 of the Revised Statutes of Ontario, 1970, is repealed.

References

(2) Any reference in any Act to an optometrist registered under *The Optometry Act* shall be deemed to be a reference to an optometrist licensed under this Part and any reference to *The Optometry Act* shall be deemed to be a reference to this Part.



## PART VI

## PHARMACY

118.—(1) In this Part,

Interpre-  
tation

(a) "by-laws" means the by-laws made under this Part;

(b) "College" means the Ontario College of Pharmacists;

(c) "Council" means the Council of the College;

(d) "drug" means any substance or preparation containing any substance,

(i) manufactured, sold or represented for use in,

1. the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical or mental state or the symptoms thereof, in humans, animals or fowl, or

2. restoring, correcting, or modifying functions in humans, animals or fowl,

(ii) referred to in Schedule C, D, E, F, G or N, or

(iii) listed in a publication named by the regulations,

(iv) named in the regulations,

but does not include,

(v) any substance or preparation referred to in sub-clause i, ii or iii manufactured, offered for sale or sold as, or as part of, a food, drink or cosmetic,

(vi) any medicine registered under the *Proprietary or Patent Medicine Act* (Canada) and sold in accordance with its provisions, or <sup>R.S.C. 1970, c. P-25</sup>

(vii) a substance or preparation named in Schedule A or B;

(e) "interchangeable pharmaceutical product" means a product containing a drug or drugs in the same

amounts of the same active ingredients in the same dosage form as that directed by a prescription;

- (f) "intern" means a person who is registered under this Part as an intern;
- (g) "licence" means a licence to act as a pharmacist issued under this Part;
- (h) "member" means a member of the College;
- (i) "Parcost C.D.I." means the Parcost Comparative Drug Index prescribed by the regulations;
- (j) "pharmacist" means a person who is licensed under this Part as a pharmacist;
- (k) "pharmacy" means a premises in or in part of which prescriptions are compounded and dispensed for the public or drugs are sold by retail;
- (l) "prescriber" means a person who is authorized to give a prescription within the scope of his practice of a health discipline or profession;
- (m) "prescription" means a direction from a prescriber directing the dispensing of any drug or mixture of drugs for a designated person or animal;
- (n) "register" means a register maintained by the Registrar under this Part;
- (o) "registered pharmacy student" means a person who is registered under this Part as a pharmacy student;
- (p) "Registrar" means the Registrar of the College;
- (q) "registration" means a registration as an intern or registered pharmacy student and "registered" has a corresponding meaning;
- (r) "regulations" mean the regulations made under this Part.



(2) A reference in this Part to Schedules A, B, C, D, E, F, <sup>Schedules</sup> G or N is a reference to such Schedule established by the regulations for the purposes of this Part.

(3) The practice of a pharmacist is a health discipline to <sup>Health discipline</sup> which this Part applies.

**117.**—(1) This Part does not apply to,

<sup>Application of Part</sup>

(a) drugs compounded, dispensed or supplied in and by a hospital or a health or custodial institution approved or licensed under any general or special Act under the authority of a prescriber for persons under health care provided by such hospital or health or custodial institution;

(b) the selling of,

(i) any substance registered under the *Pest* <sup>R.S.C. 1970, c. P-10</sup> *Control Products Act* (Canada) and sold in accordance with its provisions,

(ii) any feeding stuffs registered under the *Feeds* <sup>R.S.C. 1970, c. F-7</sup> *Act* (Canada) and sold in accordance with its provisions,

(iii) a drug by a person licensed under *The Live* <sup>1973, c. 80</sup> *Stock Medicines Act, 1973*;

(c) the practice of a veterinarian under *The Veterinarians* <sup>R.S.O. 1970, c. 480</sup> *Act*.

(2) Nothing in this Part prevents any person from selling <sup>Idem</sup> or dispensing a drug to a person authorized under this Act to dispense, prescribe or administer drugs.

#### THE ONTARIO COLLEGE OF PHARMACISTS

**118.**—(1) The Ontario College of Pharmacy is continued as <sup>Ontario College of Pharmacy continued</sup> the Ontario College of Pharmacists, being a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

(2) The objects of the College are,

<sup>Objects</sup>

(a) to regulate the practice of pharmacists and to govern its members in accordance with this Act, the the regulations and the by-laws;

- (b) to establish, maintain and develop standards of knowledge and skill among its members;
- (c) to establish, maintain and develop standards of qualification and practice for the practice of pharmacists;
- (d) to establish, maintain and develop standards of professional ethics among its members;
- (e) to establish, maintain and develop standards for the operation of pharmacies;
- (f) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the college by or under any Act,

in order that the public interest may be served and protected.

Membership  
in the  
College

**119.**—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject.

Resignation  
of  
membership

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Cancellation  
for default  
of fees

(3) The Council may cancel a licence for non-payment of any prescribed fee after the member has been given at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Council  
of the  
College

**120.**—(1) The Council of the Ontario College of Pharmacy is continued and shall be the governing body and board of directors of the Ontario College of Pharmacists and shall manage and administer its affairs.

Composition  
of Council

- (2) The Council shall be composed of,
- (a) not fewer than thirteen and not more than nineteen persons who are members and are elected by the members in the manner provided by the regulations;
  - (b) not fewer than four and not more than six persons who are not members of a Council under this Act or registered or licensed under this or any other Act governing a health practice, and who are appointed by the Lieutenant Governor in Council; and

- (c) the dean of each faculty of pharmacy in Ontario or, in his absence, a representative who is a member of the faculty and of the College appointed by the dean.

(3) The persons appointed under clause *b* of subsection 2 shall be paid out of moneys appropriated therefor by the Legislature such expenses and remuneration as is determined by the Lieutenant Governor in Council. Remuneration of lay members

(4) The appointment of every person appointed under subsection 2 expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment. Expiration of appointment

- (5) Every member who is, Qualifications to vote

(a) resident in Ontario; and

(b) not in default of payment of the annual fee prescribed by the regulations,

is qualified to vote at an election of members of the Council.

(6) The Council shall elect a President and Vice-President from among its members. President, Vice-President

(7) The Council shall appoint during pleasure a Registrar and may appoint a deputy registrar who shall have the powers of the Registrar for the purposes of this Part, and may appoint such other persons as are from time to time necessary or desirable in the opinion of the Council to perform the work of the College. Registrar and staff

(8) A majority of the members of the Council constitutes a quorum. Quorum

- (9) The Council shall meet at least twice a year.

Meetings of Council

(10) The members of the Council of the Ontario College of Pharmacy who were elected under *The Pharmacy Act*, being chapter 348 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause *a* of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant. Continuation of Council members under R.S.O. 1970, c. 348



Powers of  
Minister

**121.** In addition to his powers and duties under Part 1, the Minister may,

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

## Regulations

**122.—**(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

- (a) fixing the number of members to be elected to the Council and establishing the regional and other representation for elections;
- (b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected to the Council, and controverted elections;
- (c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
- (d) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences and registrations;
- (e) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (f) prescribing the qualifications for and conditions of registration of students and interns and governing in-service training for students and interns;
- (g) providing for the maintenance and inspection of registers;
- (h) governing standards of practice for the profession;
- (i) respecting the advertising of professional services;
- (j) prescribing the books and records to be kept, returns to be made and information to be furnished with respect to pharmacies and the practice of pharmacists and providing for the examination and audit of such books and records, as the regulations prescribe;

- (k) regulating advertising by members;
- (l) providing for the designation of honorary members of the College and prescribing their rights and privileges;
- (m) prohibiting practice by pharmacists where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (n) defining professional misconduct for the purposes of this Part;
- (o) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
- (q) respecting the reporting and publication of decisions in disciplinary matters;
- (r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (s) respecting the duties and authority of the Registrar;
- (t) requiring the payment of annual fees by members, students and interns and fees for licensing, registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (u) prescribing forms and providing for their use;
- (v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

(2) The number of members to be elected to the Council and the electoral divisions and other representation fixed and established under clause *a* of subsection 1 shall not be altered or amended more than once in any five year period.

Amendment  
of electoral  
divisions



## By-laws

**123.**—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing,

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) respecting the calling, holding and conducting of meetings of the membership of the College;
- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) providing for the appointment of inspectors for the purposes of this Part;
- (m) prescribing forms and providing for their use;

- (n) providing procedures for the making, amending and revoking of the by-laws;
- (o) respecting management of the property of the College;
- (p) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
- (s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge or pharmacy education, or maintain or improve the standards of practice in pharmacy or to support and encourage public information and interest in the past and present role of pharmacy in society;
- (t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

(2) A copy of the by-laws made under subsection 1 and amendments thereto, <sup>Distribution of by-laws</sup>

(a) shall be forwarded to the Minister;

(b) shall be forwarded to each member; and

(c) shall be available for public inspection in the office of the College.

**124.**—(1) Except as provided in this Part, no person shall <sup>licence</sup> act or hold himself out as acting as a pharmacist unless he <sup>is a pharmacist</sup> is licensed under this Part.

Use of  
titles

(2) Any person who, in making or purporting to make a retail sale of a drug or substance in Schedule A or B, uses or associates therewith the title or designation of,

- (a) pharmacist;
- (b) pharmaceutical chemist;
- (c) chemist;
- (d) druggist;
- (e) apothecary,

whether or not in combination with each other or with any other term shall be deemed to be holding himself out as acting as a pharmacist for the purposes of subsection 1.

Conflict  
with other  
health  
discipline

(3) A licence shall be deemed to authorize a member to act as a pharmacist under this Part, notwithstanding that such action is included in the practice of any other health discipline.

Establish-  
ment of  
committees

**125.**—(1) The Council shall establish and appoint as hereinafter provided the following committees,

- (a) Executive Committee;
- (b) Accreditation Committee;
- (c) Registration Committee;
- (d) Complaints Committee;
- (e) Discipline Committee,

and may establish such other committees as the Council from time to time considers necessary.

Vacancies

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

Completing  
quorum

(3) Where the persons attending a meeting of any Committee duly called fail to constitute a quorum, the President may appoint such members of the Council as are required to complete the quorum to attend the meeting and act as a member of the Committee for the purposes of the meeting.



**126.**—(1) The Executive Committee shall be composed of, <sup>Executive Committee</sup>

(a) the President, who shall be Chairman of the Committee;

(b) the Vice-President; and

(c) three members of the Council appointed by the Council, one of whom shall be the immediate past president, if he is a member of Council, and one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) A majority of the members of the Executive Committee <sup>Quorum</sup> constitutes a quorum.

(3) The Executive Committee shall perform such functions <sup>Duties</sup> of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

**127.**—(1) The Registration Committee shall be composed <sup>Registration Committee</sup> of,

(a) one member of the Council who is the dean of a faculty of pharmacy, or his representative on the Council;

(b) two members of the Council who were elected to the Council; and

(c) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

(2) The Council shall name one member of the Registration <sup>Chairman</sup> Committee to be Chairman.

(3) A majority of the members of the Registration Com- <sup>Quorum</sup> mittee constitutes a quorum.

**128.**—(1) The Registrar shall issue a licence or registration <sup>Licences and registrations</sup> to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence or registration that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

Powers and  
duties of  
Registration  
Committee

(2) The Registration Committee,

- (a) shall determine the eligibility of applicants for licences and registrations and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and
- (b) may exempt an applicant from any admission requirement.

Conditions  
of licences

(3) The Registration committee may direct the Registrar to issue or refuse to issue licences or make or refuse to make registrations or to issue licences and make registrations subject to such terms, conditions and limitations as the Committee specifies.

Review of  
qualifications

(4) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

Registers of  
licences

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed or registered under this Part, identifying the terms, conditions and limitations attached to the licence or registration, and shall note on the register every revocation, suspension and cancellation or termination of a licence or registration and such other information as the Registration Committee or Discipline Committee directs.

Continuation  
of licences  
R.S.O. 1970,  
c. 348

(6) Every licence and registration issued or made under *The Pharmacy Act*, being chapter 348 of the Revised Statutes of Ontario, 1970, and in effect immediately before this Part comes into force continues in the same manner as if issued or made under this Part.

Accredita-  
tion  
Committee

**129.**—(1) The Accreditation Committee shall be composed of,

- (a) three members of the Council who were elected to the Council; and
- (b) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council,



and shall exercise the powers and carry out the duties assigned to it under sections 138 and 139.

(2) No person who is a member of the Discipline Committee<sup>13</sup> shall be a member of the Accreditation Committee.

(3) The Council shall name one member of the Accreditation Committee to be Chairman.

(4) A majority of the members of the Accreditation Committee constitutes a quorum.

**130.**—(1) The Complaints Committee shall be composed of,<sup>Complaints Committee</sup>

(a) three members of the Council who were elected to the Council; and

(b) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

(2) No person who is a member of the Discipline Committee<sup>Idem</sup> shall be a member of the Complaints Committee.

(3) The Council shall name one member of the Complaints Committee to be its Chairman.<sup>Chairman</sup>

(4) A majority of the members of the Complaints Committee constitutes a quorum.<sup>Quorum</sup>

**131.**—(1) The Complaints Committee shall consider and investigate complaints made by members of the public regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless,<sup>Duties</sup>

(a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

(2) The Committee in accordance with the information it receives may,<sup>Idem</sup>

(a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 134; or

(b) direct that the matter not be referred under clause *a*; or

(c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.

Decision  
and  
reasons

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8 and, where the decision is made under clause *b* of subsection 2, its reasons therefor.

Discipline  
Committee

**132.**—(1) The Discipline Committee shall be composed of,

(a) four members of the Council who were elected to the Council; and

(b) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

Quorum  
and votes

(2) Three or more members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum, and all disciplinary decisions require the vote of a majority of the members of the Discipline Committee present at the meeting.

Disability  
of lay  
member

(3) Where the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

Chairman

(4) The Council shall name one member of the Discipline Committee to be its Chairman.

Reference  
by Council  
or Executive  
Committee

(5) Notwithstanding section 131, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member.

Duties of  
Discipline  
Committee

**133.**—(1) The Discipline Committee shall,

(a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;

(b) hear and determine matters referred to it under section 131, 132, 135 or 139; and

(c) perform such other duties as are assigned to it by the Council.

Idem

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall,

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

(3) A member may be found guilty of professional misconduct by the Committee if, Professional misconduct

- (a) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;
- (b) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

(4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his professional responsibilities a lack of knowledge, skill or judgment or disregard for the welfare of the public he serves of a nature or to an extent that demonstrates he is unfit to carry out the responsibilities of a pharmacist. Incompetence

(5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order, Powers of Discipline Committee

- (a) revoke the licence of the member;
- (b) suspend the licence of the member for a stated period not exceeding twelve months;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.



Costs

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes.

Stay on  
appeal for  
incom-  
petence

(7) Where the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Stay on  
appeal for  
professional  
misconduct

(8) Where the Discipline Committee revokes, suspends or restricts the licence of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned.

Service of  
decision of  
Discipline  
Committee

(9) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member.

Continuation  
on expiry of  
Committee  
membership

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

Interpre-  
tation

**134.—(1)** In this section,

- (a) "board of inquiry" means a board of inquiry appointed by the Executive Committee under subsection 2;
- (b) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise as a pharmacist or that his practice be restricted.

Reference  
to board  
of inquiry

(2) Where the Registrar receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at

least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

(3) The board of inquiry shall make such inquiries as it <sup>Examination</sup> considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the Executive Committee on the recommendation of the Board may order that his licence be suspended until he complies.

(4) The board of inquiry shall report its findings to the <sup>Hearing by</sup> Executive Committee and deliver a copy thereof and a copy <sup>Registration</sup> of any medical report obtained under subsection 3 to the <sup>Committee</sup> member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and the Executive Committee may, on the recommendation of the Registration Committee, suspend the member's licence until the determination of the question of his capacity becomes final.

(5) The College, the person whose capacity is being investi- <sup>Parties</sup> gated and any other person specified by the Committee are parties to the hearing.

(6) A legally qualified medical practitioner is not com- <sup>Medical</sup> pellable to produce at the hearing his case histories, notes <sup>evidence</sup> or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

(a) where the evidence is required by the College, at least five days before the hearing commences; and

(b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.



Powers of  
Registration  
Committee

(7) The Registration Committee shall, after the hearing,

- (a) make a finding as to whether or not the member is an incapacitated member; and
- (b) where the member is found to be an incapacitated member, by order,
  - (i) revoke his licence,
  - (ii) suspend his licence for such period as the Committee considers appropriate, or
  - (iii) attach such terms and conditions to the licence as the Committee considers appropriate.

Notice  
of orders

(8) The Registrar may give notice of an order made under this section to such persons as he considers appropriate in the public interest.

## Procedures

(9) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Restoration  
of licence

**135.**—(1) A person whose licence has been revoked for cause under this Part, or registration has been suspended or cancelled for cause under a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or cancellation or, where the suspension is for more than one year, one year after the suspension.

Reference  
to  
Discipline  
Committee

(2) The Registrar shall refer the application to the Discipline Committee, or where the revocation or suspension was on the grounds of incapacity, to the Registration Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member.

## Procedures

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 9 of section 11 apply, *mutatis mutandis*, to proceedings

of the Registration Committee and Discipline Committee under this section.

(4) Notwithstanding subsections 1, 2 and 3, the Council or the Executive Committee may direct at any time that a licence be issued to a person whose licence has previously been revoked for cause or a suspension for cause be removed, subject to such terms, conditions or limitations as the Council or Executive Committee, as the case may be, considers appropriate.

Direction  
by Council  
to issue  
licence

**136.**—(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence the Registrar may by order appoint one or more persons to make an investigation to ascertain whether such act has occurred, and the person appointed shall report the result of his investigation to the Registrar.

Investiga-  
tion of  
members

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may upon production of his appointment enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

Powers of  
investigator

1971, c. 49

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Obstruction  
of  
investigator

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with

Search  
warrant

such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of  
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Admissi-  
bility of  
copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.

Report of  
Registrar

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or such other Committee as he considers appropriate.

Matters  
confidential

**137.**—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 136, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation and shall not communicate any such matters to any other person except,

(a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations;  
or

1972, c. 91

(b) as may be required for the enforcement of *The Health Insurance Act, 1972*;

(c) to his counsel; or

(d) with the consent of the person to whom the information relates.



(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws. Testimony in civil suit

#### PHARMACIES

**138.**—(1) No person shall establish or operate a pharmacy unless a certificate of accreditation has been issued in respect thereof. Certification of accreditation

(2) The Registrar shall issue a certificate of accreditation and renewals thereof to any applicant therefor where the applicant and the pharmacy and its proposed operation qualify under this Part and the regulations and shall refer to the Accreditation Committee every application for a certificate or renewal that he proposes to refuse or to which he considers terms, conditions or limitations should be attached. Issuance

(3) The Accreditation Committee shall determine the eligibility of the applicant and the pharmacy or proposed pharmacy and its operation and may direct the Registrar to issue or refuse to issue the accreditation certificate or to issue the accreditation certificate subject to such terms, conditions or limitations as the Committee directs. Accreditation Committee

(4) The provisions of Part I applying to hearings, review and appeals in respect of proceedings of the Registration Committee apply, *mutatis mutandis*, in respect of proceedings of the Accreditation Committee. Procedures

(5) Every certificate of accreditation issued under *The Pharmacy Act*, being chapter 348 of the Revised Statutes of Ontario, 1970, and in effect immediately before this Part comes into force continues in the same manner as if issued under this Part. Continuation of certificates R.S.O. 1970, c. 348

**139.**—(1) Where the Accreditation Committee has reason to believe that a pharmacy or its operation fails to conform to the requirements of this Part and the regulations or to any term, condition or limitation to which its certificate of accreditation is subject, the Committee may refer the matter to the Discipline Committee for a hearing and determination. Revocation of certificate of accreditation

(2) Where the Accreditation Committee refers a matter to the Discipline Committee and the Discipline Committee finds Powers of Discipline Committee

that a pharmacy or its operation fails to conform to the requirements of this Part and the regulations or to any term, condition or limitation to which its certificate of accreditation is subject, the Discipline Committee may,

- (a) suspend the certificate of accreditation for a stated period; or
- (b) revoke the certificate of accreditation.

**Procedures**

(3) The provisions of Part I and this Part applying to proceedings before the Discipline Committee in respect of professional misconduct and appeals therefrom apply to the proceedings before the Discipline Committee under this section.

**Cancellation for non-payment of fee**

(4) The Council may cancel a certificate of accreditation for non-payment of the prescribed fee after the person operating the pharmacy has been given at least two months notice of default and intention to cancel.

**Closing of pharmacy**

**140.** Every person who permanently closes a pharmacy shall immediately remove all signs and symbols relating to the practice of pharmacy either within or outside the premises, shall remove and dispose of all drugs according to law and shall submit in writing to the Registrar such information and within such time as the regulations prescribe.

**Operation of pharmacies by corporation**

**141.—(1)** No corporation shall own or operate a pharmacy unless the majority of the directors of the corporation are pharmacists.

**Idem**

(2) No corporation shall own or operate a pharmacy unless a majority of each class of shares of the corporation is owned by and registered in the name of pharmacists.

**Application of subs. 2**

(3) For the purposes of subsection 2, shares registered in the name of the personal representative of a deceased pharmacist shall, for a period not exceeding four years, be considered to be registered in the name of a pharmacist.

**Idem**

(4) Subsection 2 does not apply to any corporation operating a pharmacy on the 14th day of May, 1954.

**Application of section**

(5) This section does not apply to the operation of a pharmacy by a non-profit corporation having as its objects and providing health services by members of more than one health discipline.

**Where licence revoked**

**142.** No person whose licence as a pharmacist has been revoked for cause or while his licence is suspended for cause,

- (a) shall be employed or work in a pharmacy; or
- (b) shall act as a director or vote as a shareholder in a corporation operating a pharmacy.



**143.**—(1) No person other than a pharmacist or a corporation complying with the requirements of section 141 shall own or operate a pharmacy. Ownership of pharmacies

(2) For the purposes of the ownership of a pharmacy, or for the purposes of the composition of the board of directors or ownership of shares of a corporation as required by section 141, the right to operate the pharmacy shall not be affected by, Idem

(a) any suspension of the licence of a pharmacist; or

(b) the revocation of the licence of a pharmacist until after a period of six months has elapsed.

**144.**—(1) Where a person owning and operating a pharmacy becomes bankrupt, insolvent or makes an assignment for the benefit of creditors, he shall so notify the Registrar and the trustee in bankruptcy, liquidator or assignee, as the case may be, may own and operate the pharmacy for the purposes of the bankruptcy, insolvency or assignment. Carrying on business of bankrupt person



(2) Upon the death of a pharmacist who was owning and operating a pharmacy at the time of his death, the personal representative of such deceased person may own and operate the pharmacy for a period of four years or for such further period as the Council may authorize. Carrying on business of deceased person

(3) Every person authorized to own and operate a pharmacy under subsection 1 or 2 shall immediately upon becoming so authorized file with the Registrar evidence of his authority. Notification to Registrar

**145.**—(1) No person shall operate a pharmacy unless, Supervision of pharmacist

(a) it is under the supervision of a pharmacist who is physically present; and

(b) it is managed by a pharmacist so designated by the owner of the pharmacy.

 (2) Where the drugs in a pharmacy are restricted to a part of the pharmacy that is not accessible to the public in accordance with the regulations, and while such part is not in operation, clause *a* of subsection 1 does not apply to the remaining premises of the pharmacy. Exception 

(3) Every pharmacist practising in a pharmacy shall publicly display his licence in the pharmacy except during such period, if any, as the licence is under suspension. Displaying licence

**146.** No person shall in connection with a retail business use the designation, Designations

(a) drug store;

- (b) pharmacy;
- (c) drug department;
- (d) drug sundries;
- (e) drug or drugs;
- (f) drug mart; or
- (g) medicines,

unless the business is an accredited pharmacy.

Inspection  
of premises

**147.**—(1) An inspector appointed under a by-law may enter any pharmacy or other shop in the performance of his duties under this Part at all reasonable times.

Inspection  
of records

(2) Any record required to be kept under this Part shall be open to inspection by any inspector appointed under a by-law.

#### DRUGS

Dispensing  
of drugs

**148.**—(1) Subject to section 153, no person other than a pharmacist or an intern or a registered pharmacy student acting under the supervision of a pharmacist who is physically present shall compound, dispense or sell any drug in a pharmacy.

Exception  
for certain  
drugs

(2) Where a pharmacist or an intern is present in the pharmacy and is available to the purchaser for consultation, subsection 1 does not apply to the sale in a pharmacy of a drug other than,

- (a) a drug requiring a prescription for sale;
- (b) a drug referred to in Part I of Schedule D; or
- (c) a drug referred to in Schedule C.

Misrepresenta-  
tion

**149.** No person shall knowingly sell any drug under the representation or pretence that it is a particular drug that it is not, or contains any substance that it does not.

Labelling  
of Sched. D  
drugs

**150.**—(1) No person shall sell a drug listed in Schedule D unless it is labelled in accordance with the regulations.

Record  
of poisons

(2) No person shall sell by retail a drug listed in Part I of Schedule D unless a record of the sale is made in such manner as the regulations prescribe.

(3) Subsections 1 and 2 do not apply to a drug when <sup>Exception</sup> it is dispensed pursuant to a prescription or forms part of the ingredients of a prescription.

**151.** Drugs referred to in Schedules D, E, F, G and N <sup>Mailing of drugs</sup> shall be sent through the mail only by registered mail.

**152.** The manager of every pharmacy shall keep or cause <sup>Records of pharmacy</sup> to be kept a record of every purchase and sale of a drug referred to in Schedule G or N in such form or manner as the regulations may prescribe.

**153.—(1)** No person shall sell by retail a substance listed <sup>Sale of Sched. B drugs</sup> in Schedule B unless it is labelled in accordance with the regulations.

(2) No person other than a pharmacist shall sell by retail <sup>Idem</sup> a substance listed in Schedule B for the prevention or treatment of an ailment, disease or physical disorder, unless it is sold in the container in which it was received by the seller.

**154.—(1)** Subject to the regulations, no person shall sell <sup>Prescription drugs</sup> by retail any drug referred to in Schedule E, F, G or N, except on prescription given in such form, in such manner and under such conditions as the regulations prescribe.

(2) Subsection 1 does not apply to drugs referred to in <sup>Exception</sup> Part II of Schedule F that are sold in a container labelled by the manufacturer as for veterinary or agricultural use or sold in a form unsuitable for human use.

**155.—(1)** Every person who dispenses a drug pursuant to <sup>Information noted on prescription</sup> a prescription shall ensure that the following information is recorded on the prescription,

(a) the name and address of the person for whom the drug is prescribed;

(b) the name, strength (where applicable) and quantity of the prescribed drug;

(c) the directions for use, as prescribed;

(d) the name and address of the prescriber;

(e) the identity of the manufacturer of the drug dispensed;

(f) an identification number or other designation;



- (g) the signature of the person dispensing the drug and, where different, also the signature of the person receiving a verbal prescription;
- (h) the date on which the drug is dispensed;
- (i) the price charged.

Retention  
of records

(2) The records required under subsection 1 shall be retained for not less than six years.

Identifica-  
tion  
markings

(3) The container in which the drug is dispensed shall be marked with,

- (a) the identification number that is on the prescription;
- (b) the name, address and telephone number of the pharmacy in which the prescription is dispensed;
- (c) the identification of the drug as to its name, its strength and its manufacturer, unless directed otherwise by the prescriber;
- (d) the quantity where the drug dispensed is in solid oral dosage form;
- (e) the name of the owner of the pharmacy;
- (f) the date the prescription is dispensed;
- (g) the name of the prescriber;
- (h) the name of the person for whom it is prescribed;
- (i) the directions for use as prescribed.

Copy of  
prescription

**156.**—(1) Every person in respect of whom a prescription is presented to a pharmacist to be dispensed, unless otherwise directed by the prescriber, is entitled to have a copy of it marked as such, furnished to him, his agent, or a pharmacist acting on behalf of such person or agent.

Disposal of  
prescriptions

(2) Prescriptions in a pharmacy that ceases to operate as a pharmacy shall be delivered to the persons, or agents of the persons, who presented the prescription or to another pharmacy that is reasonably readily available to such person or his agent, or failing either, to the College.

Prescription  
by doctor  
out of  
Ontario

**157.** A pharmacist may dispense a drug pursuant to a written order signed by a physician or dentist licensed to

practise in a province in Canada other than Ontario, if in the professional judgment of the pharmacist the patient requires the drug immediately, but such order shall not be refilled.

**158.**—(1) Every person who dispenses a prescription may, unless otherwise directed by the prescriber, select and dispense an interchangeable pharmaceutical product other than the one prescribed, if the interchangeable pharmaceutical product dispensed is listed as interchangeable in the Parcost C.D.I., and is lower in cost than the drug prescribed. Substitution of interchangeable product

(2) Where a drug prescribed is listed in the Parcost C.D.I. and the identity of the manufacturer is not specified by the prescriber every person who dispenses a prescription shall select and dispense an interchangeable pharmaceutical product listed in the Parcost C.D.I. Generic description

(3) No person shall knowingly supply an interchangeable product under subsection 1 or 2 at a price in excess of the cost of the lowest priced interchangeable pharmaceutical product in his inventory and the maximum dispensing fee as set out in the Parcost C.D.I. Cost

(4) No action or other proceeding lies or shall be instituted against a prescriber or pharmacist on the grounds that an interchangeable pharmaceutical product other than the one prescribed was dispensed in accordance with this section. No liability for substitution

**159.**—(1) Every person who operates or manages a pharmacy shall provide the Minister with such information from records required to be kept under section 155 as the Minister requests. Reports by pharmacists

(2) The Registrar shall provide the Minister with such information respecting substances referred to in the Schedules, except Schedule A, as the Registrar possesses and the Minister requests. Reports by Registrar

**160.**—(1) No person shall sell by wholesale any drug for the purpose of sale by retail to any person who is not entitled to sell the drug by retail. Sale of drugs by wholesale

(2) Every person supplying drugs by wholesale in Ontario shall register with the College as a drug wholesaler and furnish the Registrar with a signed statement showing. Registration by wholesalers

- (a) his full name and address, or if a corporation the name of the corporation, the names and addresses of the president and directors thereof;



(b) the principal business address,

and with respect to his places of business where drugs are handled,

(c) the address of each place of business, agent or representative in Ontario;

(d) the name of the manager or person responsible for each place of business in Ontario;

(e) the date on which he proposes to commence business at each new location in Ontario.

Furnishing  
of informa-  
tion

(3) The information required by subsection 2 shall be furnished within thirty days after this Part comes into force and thereafter at least seven days before commencing business and any change in the information required by subsection 2 shall be furnished to the Registrar within seven days of the change.

Regulations

**161.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Council may make regulations,

(a) prescribing the substances that are included in Schedules A, B, C, D, E, F, G and N for the purpose of this Part;

(b) naming substances for the purposes of clause *d* of subsection 1 of section 116 and specifying the provisions of this Act that shall apply in respect of such substances;

(c) naming publications for the purposes of clause *d* of subsection 1 of section 116;

(d) prescribing the percentage of any substance to be contained in any preparation referred to in any Schedule;

(e) prescribing the manner in which prescriptions shall be given in respect of the drugs referred to in Schedules E, F, G and N and the conditions under which such prescriptions may be given;

(f) authorizing the refilling of prescriptions without further prescription and prescribing the conditions under which prescriptions may be refilled without further prescription;

- (g) prescribing the manner in which records shall be kept of the purchase and sale of the drugs referred to in Schedules D, G and N;
- (h) pertaining to the transfer of prescriptions and the records to be kept by the transferor and the transferee;
- (i) designating substances listed in Schedule D that may be sold by persons not otherwise authorized under this Part and authorizing the sale of such substances by any persons or classes of persons not otherwise authorized under this Part and prescribing the conditions under which such substances shall be sold by such persons or classes of persons;
- (j) prescribing the labelling of substances listed in Schedule B for the purposes of section 153;
- (k) providing for the establishment and maintenance of patient record systems;
- (l) prescribing the types of containers to be used for containing any drug and the designs, specifications and labelling of containers used for containing any drug;
- (m) prescribing standards for accreditation of pharmacies including maintenance, operation, space, equipment and facilities required therefor;
- (n) providing for applications for certificates of accreditation of pharmacies, and the issuance of such certificates and their expiration and renewal and requiring the payment of fees therefor and prescribing the amounts thereof;
- (o) providing for the filing with the Registrar of information respecting the location of the place of practice and the residential address of pharmacists, the name and address of pharmacies in the Province of Ontario including the name and address of the owner and the manager of such pharmacies, and any changes thereof, and the form of such information and the time of filing;
- (p) providing for the information, instruments or documents to be filed with the Registrar by persons opening, acquiring, relocating or closing a pharmacy, the form thereof and the time of filing;
- (q) prescribing standards for the subdivision of premises so that drugs are restricted to a specified area and

so that the part of the premises to which the drugs are restricted may be rendered not accessible to the public, while the other part remains open;

- (r) regulating the handling, location and storage of drugs in a pharmacy.

Idem

(2) The Lieutenant Governor in Council may make regulations,

- (a) regulating the use of containers in which drugs may be dispensed and designating organizations to test, certify and designate containers that meet standards approved by the Minister for such purposes as may be specified in the regulations, and requiring the use of containers that are so certified and designated except under such circumstances as are prescribed;
- (b) prescribing the Parcost C.D.I. for the purpose of this Part.

#### ENFORCEMENT

Restraining  
orders

**162.**—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

Recovery  
of charges

**163.** A person who sells any drug in contravention of this Part or the regulations is not entitled to recover any charges in respect thereof.

Surrender  
of cancelled  
licence or  
accredita-  
tion  
certificate

**164.** Where a licence or certificate of accreditation is revoked or cancelled, the former holder thereof shall forthwith deliver the licence or certificate to the Registrar.

Penalties

**165.**—(1) Every person who is in contravention of section 124 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.



(2) Every person who not being a member uses an occupational designation prescribed by the regulations to be used by members or a like designation is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

(3) Every person who contravenes any provision of this Act or the regulations for which no penalty is otherwise provided is guilty of an offence and on summary conviction is liable to a fine not exceeding \$2,000.

**166.** (1) Every owner or manager of a pharmacy is liable for every offence against this Part committed by any person in his employ or under his supervision with his permission, consent or approval, express or implied, and every director of a corporation operating a pharmacy is liable for every offence against this Part committed by any person in the employ of the corporation with his permission, consent or approval, express or implied. Responsibility of owner and manager

(2) Where any person operates a pharmacy contrary to this Part or the regulations, the owner and manager of such pharmacy, or either of them, or any director of a corporation operating a pharmacy, may be proceeded against, and prosecution or conviction of either of them is not a bar to prosecution or conviction of the other. Idem

**167.** In any prosecution under this Part,

Evidence

- (a) a certificate as to the analysis of any drug or poison purporting to be signed by a Food and Drug Analyst or Provincial Analyst is admissible in evidence as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the analyst;
- (b) any article labelled as containing any drug is admissible in evidence as *prima facie* proof that the article contains the drug described on the label;
- (c) the label of the container of a drug dispensed pursuant to a prescription is admissible in evidence as *prima facie* proof that the drug named in the prescription was dispensed;
- (d) evidence that a drug is found in a shop or place in which business is transacted is admissible as *prima facie* proof that it was kept for sale;

- (e) evidence of the publishing of a sign, title or advertisement containing the name of an establishment or the owner thereof is admissible in evidence as *prima facie* proof that the sign, title or advertisement was published by the owner of the establishment.

## Repeals

**168.**—(1) The following Acts are repealed:

1. *The Pharmacy Act*, being chapter 348 of the Revised Statutes of Ontario, 1970.
2. *The Pharmacy Amendment Act, 1972*, being chapter 99.
3. *The Pharmacy Amendment Act, 1973*, being chapter 126.

## References

(2) Any reference in any Act or regulation to a pharmaceutical chemist registered under *The Pharmacy Act* shall be deemed to be a reference to a pharmacist licensed under this Part and any reference to *The Pharmacy Act* shall be deemed to be a reference to this Part.

## MISCELLANEOUS

Commence-  
ment

**169.**—(1) This Act, except sections 1 to 5 and sections 7 to 168, comes into force on the day it receives Royal Assent.

## Idem

(2) Sections 1 to 5 and sections 7 to 168, come into force on a day to be named by proclamation of the Lieutenant Governor.

## Short title

**170.** This Act may be cited as *The Health Disciplines Act, 1974*.





*1st Reading*

April 2nd, 1974

*2nd Reading*

April 30th, 1974

*3rd Reading*

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THE HON. F. S. MILLER  
Minister of Health

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*(Reprinted as amended by the  
Social Development Committee)*

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 Elizabeth II, 1974

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**The Health Disciplines Act, 1974**

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THE HON. F. S. MILLER  
Minister of Health

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*(Reprinted as amended by the Committee of the Whole House)*

#### EXPLANATORY NOTE

The Bill re-enacts the legislation governing five major health professions:

1. Dentistry.
2. Medicine.
3. Nursing.
4. Optometry.
5. Pharmacy.

The Bill incorporates recommendations of the Committee on the Healing Arts and of the Royal Commission Inquiry into Civil Rights, Vol. 3, Section 4.

The principal changes are:

1. lay representation on the professional governing council;
2. closer supervisory powers in the Minister;
3. the creation of a health disciplines board for the purpose of conducting hearings and review respecting complaints and applications for licensing;
4. a complete system of hearings and review for all matters of licensing and discipline with uniformity of procedures for all professions.

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## BILL 22

1974

**The Health Disciplines Act, 1974**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**PART I****GENERAL****1.—(1) In this Act,****Interpre-  
tation**

- (a) "Board" means the Health Disciplines Board established under section 6;
- (b) "health discipline" means a health discipline to which a Part of this Act applies;
- (c) "Minister" means the Minister of Health;
- (d) "regulations" means the regulations made under this Act.

**(2) In this Part,****Idem**

- (a) "College" means the corporate body of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;
- (b) "complaints committee" means the complaints committee of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;
- (c) "Council" means the governing body of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;

(d) “discipline committee” means the discipline committee of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;

(e) “registration” means,

(i) a licence to practise a health discipline or group of health disciplines issued under a Part of this Act requiring a licence to practise, or

(ii) a certificate respecting the practising of a health discipline or group of health disciplines issued under a Part of this Act,

the issuance of which is required to be entered on the register of the appropriate College, and “registered” has a corresponding meaning.

References  
to hearings  
1971, c. 47

(3) Nothing in this Act shall be construed to require a hearing to be held within the meaning of *The Statutory Powers Procedure Act, 1971* unless the holding of a hearing is specifically referred to.

Administra-  
tion of Act

**2.** The Minister is responsible for the administration of this Act.

Duties of  
Minister

**3.—(1)** It is the duty of the Minister to ensure that the activities of health disciplines are effectively regulated and co-ordinated in the public interest, to have appropriate standards of practice developed and ensure that these are maintained and to ensure that the rights of individuals to the services provided by health disciplines of their choice are maintained and to these ends to,

(a) inquire into or direct the appropriate Council or Councils to inquire into the state of the practice of one or more health disciplines in any locality or institution;

(b) require Councils to provide such reports and information as the Minister requires for his purposes including information from the registers of the Colleges;

(c) review proposals by a Council for changes in legislation or regulations of concern to that Council;

- (d) consider the by-laws of Councils and provide advice and guidance to Councils with respect to the proposed implementation or revision of such by-laws;
- (e) request a Council to make, amend or revoke regulations respecting any of the matters specified in its applicable Part; and
- (f) review legislation respecting the provision of health services by health disciplines.

(2) Where the Minister requests in writing that a Council make, amend or revoke a regulation under clause *e* of subsection 1 and the Council has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request.

Regulations  
by Lieutenant  
Governor in  
Council

(3) The Minister may appoint such advisory committees as he considers desirable and appropriate to assist him in carrying out his duties under this Act.

Appointment  
of advisory  
committees

4. Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health discipline, the Minister shall distribute the proposals to all health disciplines and all health disciplines are entitled to make submissions to the Minister with respect to such proposals.

Distribution  
of proposed  
changes in  
legislation  
or regulations

5. Where a College has incurred expenses in complying with the directions of the Minister under this Part, the Minister may, out of moneys appropriated therefor by the Legislature, make appropriate payments to reimburse the College in whole or in part for the expenses incurred.

Payments  
to Council

6.—(1) There is hereby established a body to be known as the Health Disciplines Board.

Health  
Disciplines  
Board

(2) The Board shall be composed of not fewer than five and not more than seven members who shall be appointed by the Lieutenant Governor in Council on the recommendation of the Minister, and the Lieutenant Governor in Council shall designate one of the members of the Board to be chairman and one to be vice-chairman.

Composition

(3) No person who is employed in the public service of Ontario or of any agency of the Crown, or who is or has been a member of a Council or who is or has been registered under this Act or any other Act governing a health practice shall be a member of the Board.

Disqualifi-  
cation



**Term** (4) The members of the first Board may be appointed for a term of one, two or three years and thereafter appointments and reappointments shall be for a term of three years.

**Vacancies** (5) Every vacancy on the Board caused by the death, resignation or incapacity of a member, may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member.

**Quorum** (6) A majority of the members of the Board constitutes a quorum.

**Remuneration** (7) The members of the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.

**Seal** (8) The Board may prescribe and adopt a seal.

**Board employees** (9) Such employees as are necessary to carry out the duties of the Board under this Act shall be employed under *The Public Service Act*.  
R.S.O. 1970, c. 386

**Duties of Board** 7.—(1) The Board shall,

(a) conduct such hearings and perform such duties as are assigned to it by or under this or any other Act; and

(b) submit an annual report on its activities to the Minister and which shall include such additional information as the Minister may require and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

**Expert advice** (2) The Board may obtain expert or professional advice in connection with a hearing or complaint but the adviser shall be a person independent of,

(a) the parties in the case of a hearing; or

(b) the complainant and the member complained against in the case of a complaint,

and in the case of a hearing, the nature of the advice shall be made known to the parties in order that they may make submissions as to the advice.

**Complaints** 8.—(1) Where a complaints committee has made a disposition of a complaint respecting a member of its College in accordance with the provisions of the applicable Part of this



Act governing that College, the Registrar of the College shall send to the member and to the complainant by prepaid first class mail, a copy of the written decision made by the complaints committee and reasons therefor, if any, together with notice advising the complainant of his right of review under subsection 2.

(2) A complainant or the member complained against who is not satisfied with the decision made by a complaints committee disposing of a complaint, except a decision to refer a matter to the discipline committee, may within twenty days of receipt of the written decision request the Board to review the decision and the Board shall require the Registrar of the College to transmit to the Board within fifteen days of the Board's request, a record of the investigation and all such documents and things upon which the decision was based and the Board shall review the decision after giving the complainant an opportunity to state his complaint and the member an opportunity to state his answer thereto, either personally, by his agent or in writing.

Review of  
complaints

9. Where a complaint respecting a member of a College has not been disposed of by the complaints committee of the College within sixty days after the complaint is made, the Board upon application therefor may require the complaints committee to make an investigation and, where the investigation of the complaint has not been undertaken, completed and reported on to the Board by the committee within sixty days after the Board's request, the Board shall undertake such investigation and possesses all the powers of investigation that the complaints committee or the Registrar has in the applicable Part of this Act.

Investigation  
of complaint  
by Board

10.—(1) The Board may after review or investigation of a complaint under section 8 or 9 refer the complaint to the complaints committee and the Board may,

Powers of  
Board after  
review or  
investigation  
of complaint

- (a) confirm the decision, if any, made by the complaints committee;
- (b) make such recommendations to the complaints committee as the Board considers appropriate; or
- (c) require the complaints committee to take such action or proceedings as the committee is authorized to undertake under the applicable Part of this Act.

(2) Three members of the Board constitute a quorum for purposes of investigation or review of a complaint under section 8 or 9 or a hearing under section 11.

Board  
quorum

(3) The Board shall give its decision and reasons therefor in writing to the complainant and the member complained against.

Decision  
and  
reasons

Notice of  
proposal  
to refuse  
registration

11.—(1) Where a registration committee proposes to refuse to grant registration to an applicant, or proposes to attach terms, conditions or limitations to a registration, the Registrar on behalf of the committee shall serve notice of the proposal of the committee, together with written reasons therefor, on the applicant or registrant and a copy thereof to the Board.

Exemptions

(2) Subsection 1 does not apply to a refusal to grant registration to a person who was previously registered and whose registration was suspended or revoked as a result of a decision of a discipline committee.

Notice  
requiring  
hearing or  
review

(3) A notice under subsection 1 shall inform the applicant or registrant that he is entitled to a hearing by the Board or to a review by the Board of his application and documentary evidence in support thereof without oral evidence, if he mails or delivers within fifteen days after the notice under subsection 1 is served on him, notice in writing to the Board requiring a hearing or such review by the Board, as he specifies.

Powers of  
registration  
committee  
where  
hearing  
or review

(4) Where an applicant or registrant does not require a hearing or review by the Board in accordance with subsection 3, the Board shall so notify the registration committee making the proposal and the committee may carry out the proposal stated in its notice under subsection 1.

Findings  
of fact

(5) The findings of fact of the Board pursuant to a hearing or review shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of

1971, c. 47

*The Statutory Powers Procedure Act, 1971.*

Procedures on  
hearings

(6) The provisions of subsections 2 to 5 and subsections 7 and 8 of section 12 apply *mutatis mutandis* to proceedings before the Board under this section.

Powers of  
Board  
upon hearing  
or review

(7) The Board shall, after the hearing or review,

- (a) confirm the proposed decision of the registration committee; or
- (b) require the registration committee to permit the applicant to take qualifying examinations or additional training as a condition for registration, or both as specified by the registration committee; or
- (c) require the registration committee to direct the Registrar to register the applicant on any appro-

priate register subject to such conditions as the Board considers appropriate in cases where the Board finds that the applicant meets the requirements for registration and that the committee has exercised its powers improperly; or

- (d) refer the matter back to the registration committee for further consideration and the Board may make such recommendations as it considers appropriate in the circumstances.

(8) The registration committee and the applicant or registrant are parties to proceedings before the Board under this section. Parties

(9) Any party to proceedings before the Board under this section may appeal from its decision or order to the Supreme Court in accordance with the rules of court and the provisions of section 13 apply *mutatis mutandis* as if it were an appeal from a decision or order of a discipline committee. Appeals

**12.**—(1) In proceedings before the discipline committee of a College, the College and the member of the College whose conduct is being investigated in the proceedings are parties to the proceedings. Parties to discipline proceedings

(2) A member whose conduct is being investigated in proceedings before a discipline committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which shall be given in evidence at the hearing. Examination of documentary evidence

(3) Members of a discipline committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Council considering the referral of the matter to the discipline committee or at a previous hearing of the committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the committee may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law. Members holding hearing not to have taken part in investigation, etc.

(4) Notwithstanding anything in *The Statutory Powers Procedure Act, 1971*, hearings of the discipline committee shall be held *in camera*, but, if the person whose conduct is being investigated requests otherwise by a notice delivered to the Registrar before the day fixed for the hearing, the committee shall conduct the hearing in public except where, *In camera* 1971, c. 47



(a) matters involving public security may be disclosed;  
or

(b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

Recording of  
evidence

(5) The oral evidence taken before a discipline committee shall be recorded and, if so required, copies or a transcript thereof shall be furnished only to the parties at their own cost.

Evidence  
1971, c. 47

(6) Notwithstanding *The Statutory Powers Procedure Act, 1971* nothing is admissible in evidence before a discipline committee that would be inadmissible in a court in a civil case and the findings of a discipline committee shall be based exclusively on evidence admitted before it.

Only members  
at hearing to  
participate  
in decision

(7) No member of a discipline committee shall participate in a decision of the committee pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Release of  
documentary  
evidence

(8) Documents and things put in evidence at a hearing of a discipline committee shall, upon the request of the person who produced them, be released to him by the committee within a reasonable time after the matter in issue has been finally determined.

Appeal to  
court

**13.**—(1) Any party to proceedings before a discipline committee may appeal from its decision or order to the Supreme Court in accordance with the rules of court.

Powers of  
court on  
appeal

(2) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the committee appealed from and may exercise all powers of the committee and may direct the committee or the College to take any action which the committee or the College may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the committee, or the court may refer the matter back to the committee for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Service of  
notice

**14.**—(1) Except where otherwise provided, any notice or document required by this Act to be served may be served personally or by prepaid first class mail addressed to the person to whom notice is to be given at his last known address and, where notice is served by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence,

accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date.

(2) Every member of the Health Disciplines Board and of the discipline committee of a College has power to administer oaths and affirmations for the purposes of any of its proceedings.

Admin-  
istering  
oaths

15. Any statement containing information from the records required to be kept by a Registrar under any Part of this Act, purporting to be certified by the Registrar under the seal of the College is admissible in evidence in all courts as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the Registrar and without proof of the seal.

Registrar's  
certificate  
as evidence

16. No action or other proceeding for damages shall be instituted against the Board, a College, a Council, a committee or any member of the Board, Council or committee, or any officers, servants, agents or appointees of the Board, or a College for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Immunity of  
Board,  
College,  
Councils and  
committees

17. No duly registered member of a College is liable to any action arising out of negligence or malpractice in respect of professional services requested or rendered unless such action is commenced within one year from the date when the person commencing the action knew or ought to have known the fact or facts upon which he alleges negligence or malpractice.

Limitation  
for  
malpractice  
actions

18.—(1) Any person who makes or causes to be made any wilful falsification in any matter relating to a register or issues a false certificate or document with respect to registration is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000.

Falsification  
of certificates

(2) Any person who wilfully procures or attempts to procure himself to be registered under this Act by knowingly making any false representation or declaration or by making a fraudulent representation or declaration, either orally or in writing, is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 and every person knowingly aiding and assisting him therein is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000.

Offences for  
false repre-  
sentation



Onus of  
proof  
respecting  
registration

**19.** Where registration under this Act is required to permit the lawful doing of any act or thing, if in any prosecution it is proven that the accused has done such act or thing, the burden of proving that he was so registered under this Act rests upon the accused.

## PART II

### DENTISTRY

Interpre-  
tation

**20.—(1)** In this Part,

- (a) “by-laws” means the by-laws made under this Part;
- (b) “College” means the Royal College of Dental Surgeons of Ontario;
- (c) “Council” means the Council of the College;
- (d) “licence” means a licence for the practice of dentistry issued under this Part;
- (e) “member” means a member of the College;
- (f) “practice of dentistry” means any professional service usually performed by a dentist or a dental surgeon, and includes,
  - (i) the diagnosis or treatment of, and the prescribing, treating or operating for the prevention, alleviation or correction of any disease, pain, deficiency, deformity, defect, lesion, disorder or physical condition of, in or from any human tooth, jaw or adjacent structure or tissue or any injury thereto,
  - (ii) the making, producing, reproducing, constructing, fitting, furnishing, supplying, altering or repairing or prescribing or advising the use of any prosthetic denture, bridge, appliance or thing for any of the purposes indicated in subclause i, to be used in, upon or in connection with any human tooth, jaw or associated structure or tissue or in the treatment of any condition thereof, or replacing, improving or supplementing any human tooth, associated structure or tissue, and
  - (iii) the taking or making, or the giving of advice or assistance or the providing of facilities for

the taking or making of any impression, bite, cast or design preparatory to, or for the purpose of, or with a view to the making, producing, reproducing, constructing, fitting, furnishing, supplying, altering or repairing of any such prosthetic denture, bridge, appliance or thing;

(g) "Registrar" means the Registrar of the College;

(h) "regulations" means the regulations made under this Part.

(2) The practice of dentistry is a health discipline to which this Part applies.

**21.**—(1) The Royal College of Dental Surgeons of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

(2) The objects of the College are,

(a) to regulate the practice of dentistry and to govern its members in accordance with this Act, the regulations and the by-laws;

(b) to establish, maintain and develop standards of knowledge and skill among its members;

(c) to establish, maintain and develop standards of qualification and practice for the practice of dentistry;

(d) to establish, maintain and develop standards of professional ethics among its members;

(e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act,

in order that the public interest may be served and protected.

**22.**—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject.

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence thereupon cancelled, subject to the continuing jurisdiction

of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Cancellation  
for default  
of fees

(3) The Registrar may cancel a licence for non-payment of any fee prescribed by the regulations after giving the member at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Council of  
College

**23.**—(1) The Board of Directors of the College is continued as the Council of the College, which shall be the governing body and board of directors of the College and shall manage and administer its affairs.

Composition  
of Council

(2) The Council shall be composed of,

- (a) not fewer than nine and not more than twelve persons who are members elected in the number and manner determined by the regulations;
- (b) not fewer than three and not more than five persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice and are appointed by the Lieutenant Governor in Council; and
- (c) one person who is appointed by the faculty of dentistry of each university in Ontario that conducts a course in dentistry and is authorized to grant degrees in dentistry, such person to be appointed from among the members of the faculty.

Remunera-  
tion of lay  
members

(3) The persons appointed under clause *b* of subsection 2 shall be paid, out of moneys appropriated therefor by the Legislature, such expenses and remuneration as is determined by the Lieutenant Governor in Council.

Expiration  
of appoint-  
ment

(4) The appointment of every person appointed under subsection 2 expires at the first meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment.

Qualifica-  
tions to  
vote

(5) Every member who,

- (a) practises in Ontario; and
- (b) is not in default of payment of the annual fee prescribed by the regulations,

is qualified to vote at an election of members of the Council.



(6) The Council shall elect a President and Vice-President from among its members. President and Vice-President

(7) The Council shall appoint during pleasure a Registrar and such other officers and servants as may from time to time be necessary in the opinion of the Council to perform the work of the College. Registrar, Treasurer, Secretary and staff

(8) A majority of the members of the Council constitute a quorum. Quorum

(9) The members of the Council who were elected under *The Dentistry Act*, being chapter 108 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause *a* of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant. Continuation of Council members under R.S.O. 1970, c. 108

**24.** In addition to his powers and duties under Part I, the Minister may, Powers of Minister

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

**25.** Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations, Regulations

- (a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;
- (b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected, and controverted elections;
- (c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
- (d) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences;

- (e) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (f) providing for the maintenance and inspection of registers of persons permitted to practise;
- (g) governing standards of practice for the profession;
- (h) prescribing the records that shall be kept respecting patients;
- (i) requiring and providing for the inspection and examination of the office, records and equipment of members in connection with their practice;
- (j) regulating the compounding, dispensing and sale of drugs by members and the containers and labelling therefor, prescribing the records that shall be kept and requiring reports to the Minister respecting such compounding, dispensing and sale;
- (k) defining classes of specialists in the various branches of dentistry, prescribing the qualifications required, providing for the suspension or revocation of any such designation, and for the regulation and prohibition of the use of terms, titles, or designations by members indicating specialization in any branch of dentistry;
- (l) authorizing persons other than members to perform specified acts in the practice of dentistry under the supervision or direction of a member;
- (m) prohibiting the practice of dentistry where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (n) defining professional misconduct for the purposes of this Part;
- (o) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups



or associations of members in respect to their practices;

- (g) respecting the reporting and publication of decisions in disciplinary matters;
- (r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics, for any purpose that may tend to advance scientific knowledge and maintain the standards of practice of dentistry;
- (s) respecting the duties and authority of the Registrar;
- (t) requiring the payment of annual fees by members and fees for licensing, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- u prescribing forms for the purposes of this Part and providing for their use;
- (v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

**26.**—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing. By-laws

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;

- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) prescribing the remuneration of the members of the Council and committees, other than persons appointed by the Lieutenant Governor in Council, and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (h) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (i) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (j) providing for a code of ethics;
- (k) providing for the appointment of inspectors for the purposes of this Part;
- (l) prescribing forms and providing for their use;
- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) respecting membership of the College in any national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

- (r) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

(2) A copy of the by-laws made under subsection 1 and <sup>Idem</sup> amendments thereto,

(a) shall be forwarded to the Minister;

(b) shall be available for public inspection in the office of the College.

(3) Any by-law or resolution signed by all the members <sup>Signing by-laws and resolutions</sup> of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for that purpose.

**27.**—(1) Where a prosthetic denture is supplied, altered or repaired by a member or under the supervision of a member as set out in subsection 11 of section 4 of *The Denture Therapists Act, 1974*, the laboratory costs incurred in respect of the supplying, altering or repairing of the prosthetic denture and all fees for services in respect thereof shall be rendered by the member and the account therefor shall show such laboratory costs separately from such fees and separately from all other charges and fees. <sup>Billing for prosthetic dentures 1974, c. 34</sup>

(2) No person is liable to pay an account to which subsection 1 applies until the account is made to comply with the requirements of subsection 1. <sup>Liability for payment</sup>

**28.**—(1) No person shall engage in or hold himself out as engaging in the practice of dentistry unless he is licensed under this Part. <sup>Licence to practise</sup>

(2) For the purposes of subsection 1, proof of the performance of one act in practice of dentistry on one occasion is sufficient to establish engaging in the practice of dentistry. <sup>Proof of practice</sup>

(3) Subsection 1 does not apply to a student of dentistry who practises dentistry within a prescribed training program under the supervision of a member who is physically present. <sup>Exception re students</sup>

(4) Nothing done in the practice of denture therapy or the practice of supervised denture therapy as defined in *The Denture Therapists Act, 1974* by a denture therapist licensed or provisionally licensed thereunder shall be deemed to be a contravention of this section. <sup>Idem</sup>



Conflict  
with other  
health  
discipline

(5) A licence shall be deemed to authorize a member to engage in the practice of dentistry, notwithstanding that any part of such practice is included in the practice of any other health discipline.

Application  
of Part VI

(6) Part VI does not apply in respect of the compounding and dispensing and sale of drugs by a member for his own patients in accordance with this Part and the regulations.

Establish-  
ment of  
committees

**29.**—(1) The Council shall establish and appoint as hereinafter provided the following committees,

- (a) Executive Committee;
- (b) Registration Committee;
- (c) Complaints Committee;
- (d) Discipline Committee,

and may establish such other committees as the Council from time to time considers necessary.

Vacancies

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

Executive  
Committee

**30.**—(1) The Executive Committee shall be composed of the President and Vice-President of the Council and not more than three other members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Quorum

(2) A majority of the members of the Executive Committee constitutes a quorum.

Duties

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

**31.**—(1) The Registration Committee shall be composed of three persons who are members of the Council, one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council. Registration Committee

(2) The Council shall name one member of the Registration Committee to be Chairman. Chairman

(3) A majority of the members of the Registration Committee constitutes a quorum. Quorum

**32.**—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he proposes to refuse or to which he considers terms, conditions or limitations should be attached. Issuance of licences

(2) The Registration Committee,

Powers and  
duties of  
Registration  
Committee

(a) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fee therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(b) may exempt an applicant from any licensing requirement.

(3) The Registration Committee may direct the Registrar to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies. Idem

(4) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study, or continuing education as the committee specifies. Review of qualifications

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to practise dentistry, identifying any specialist status and the terms, conditions and limitations attached to the licence, and shall Registers of licensees



note on the register every revocation, suspension and cancellation of a licence or recognition of specialist status and such other information as the Registration Committee or Discipline Committee directs.

Continuation  
of licences

R.S.O. 1970,  
c. 108

**33.** Every licence issued under *The Dentistry Act*, being chapter 108 of the Revised Statutes of Ontario, 1970, and in effect immediately before this Part comes into force continues in the same manner as if issued under this Part.

Complaints  
Committee

**34.**—(1) The Complaints Committee shall be composed of three persons who are members of the Council, one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.

Idem

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

Chairman

(3) The Council shall name one member of the Complaints Committee to be its Chairman.

Quorum

(4) A majority of the members of the Complaints Committee constitutes a quorum.

Duties

**35.**—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless,

(a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(2) The Committee in accordance with the information it receives may,

(a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 38; or

(b) direct that the matter not be referred under clause *a*; or

- (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8 and, where the decision is made under clause *b* of subsection 2, its reasons therefor Decision and reasons

**36.**—(1) The Discipline Committee shall be composed of eight members of the Council of whom two shall be persons appointed to the Council by the Lieutenant Governor in Council. Discipline Committee

(2) The Council shall appoint one of the members of the Discipline Committee to be Chairman. Chairman

(3) The Chairman of the Discipline Committee may assign a panel of five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council. Composition of panels

(4) Three members of a panel assigned under subsection 3, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding at the hearing. Quorum and votes

(5) Where a panel of the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence. Disability of lay member

(6) Notwithstanding section 35, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member. Reference by Council or Executive Committee

**37.**—(1) The Discipline Committee shall, Duties of Discipline Committee

(a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;

(b) hear and determine matters referred to it under section 35, 36 or 39; and

(c) perform such other duties as are assigned to it by the Council.

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall, Idem

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

**Professional  
misconduct**

(3) A member may be found guilty of professional misconduct by the Committee if;

- (a) he has been found guilty of an offence relevant to his suitability to practise upon proof of such conviction;
- (b) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

**Incom-  
petence**

(4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice.

**Powers of  
Discipline  
Committee**

(5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order,

- (a) revoke the licence of the member or withdraw recognition of his specialist status, or both;
- (b) suspend the licence of the member or recognition of his specialist status, or both, for a stated period;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) impose such fine as the Committee considers appropriate to a maximum of \$5,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.



(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes.

Costs

(7) Where the Discipline Committee revokes, suspends or restricts a licence or recognition of specialist status on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Stay on appeal for incompetence

(8) Where the Discipline Committee revokes, suspends or restricts the licence or recognition of specialist status of a member on a ground other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned.

Stay on appeal for professional misconduct

(9) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member.

Service of decision of Discipline Committee

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

Continuation on expiry of Committee membership

### 38.—(1) In this section,

Interpretation

(a) "board of inquiry" means a board of inquiry appointed by the Executive Committee under sub-section 2;

(b) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise or that his practice be restricted.

(2) Where the Registrar receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to

Reference to board of inquiry

the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

**Examina-  
tion**

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his licence be suspended until he complies.

**Hearing by  
Regist-  
ration  
Committee**

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and may suspend the member's licence until the determination of the question of his capacity becomes final.

**Parties**

(5) The College, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to the hearing.

**Medical  
evidence**

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

- (a) where the evidence is required by the College, at least five days before the hearing commences; and
- (b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

**Powers of  
Registra-  
tion  
Committee**

(7) The Registration Committee shall, after the hearing,

- (a) make a finding as to whether or not the member is an incapacitated member; and



(b) where the member is found to be an incapacitated member by order,

- (i) revoke his licence,
- (ii) suspend his licence for such period as the Committee considers appropriate, or
- (iii) attach such terms and conditions to the licence as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to pro-<sup>Procedures</sup>ceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

**39.**—(1) A person whose licence has been revoked or<sup>Restoration of licence</sup> suspended for cause under this Part, or a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or, where the suspension is for more than one year, one year after the suspension.

(2) The Registrar shall refer the application to the<sup>Reference to Discipline Committee</sup> Discipline Committee or, where the revocation or suspension was on the grounds of incapacity, to the Registration Committee which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member.

(3) The provisions of Part I and this Part applying to<sup>Procedures</sup> proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration except subsection 9 of section 11 apply, *mutatis mutandis*, to proceedings of the Registration Committee and Discipline Committee under this section.

**40.**—(1) Where the Registrar believes on reasonable and<sup>Investigation of members</sup> probable grounds that a member has committed an act of professional misconduct or incompetence, the Registrar may by order appoint one or more persons to make an investigation to ascertain whether such an act has occurred, and the person appointed shall report the result of his investigation to the Registrar.

(2) For purposes relevant to the subject-matter of an<sup>Powers of investigator</sup> investigation under this section, the person appointed to make

the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation, and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. 49

Obstruction  
of  
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search  
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of  
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Admissi-  
bility  
of copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding

or prosecution as *prima facie* proof of the original book, record or document and its contents.

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or such other Committee as he considers appropriate. Report of Registrar

**41.**—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 40 and any member of the Council or a Committee, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 40 and shall not communicate any such matters to any other person except, Matters confidential

(a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations;

(b) as may be required for the enforcement of *The Health Insurance Act, 1972*; 1972, c. 91

(c) to his counsel; or

(d) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws. Testimony in civil suit

**42.**—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit. Restraining orders

(2) An appeal lies to the Supreme Court from an order made under subsection 1. Appeal



## Penalties

**43.**—(1) Every person who is in contravention of section 28 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

## Idem

(2) Every person who, not being a member, uses an occupational designation prescribed by the regulations to be used by members or a like designation is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

## Idem

(3) Any person who obstructs a person appointed to make an investigation under section 40 in the course of his duties is guilty of an offence and on summary conviction is liable to a fine not exceeding \$2,000.

## Repeals

**44.**—(1) *The Dentistry Act*, being chapter 108 of the Revised Statutes of Ontario, 1970, except section 12 thereof, *The Dentistry Amendment Act, 1972*, being chapter 141 and *The Dentistry Amendment Act, 1974*, being chapter 35, are repealed.

## Idem

(2) For the purposes of section 12 of *The Dentistry Act*, the Council shall be deemed to be the Board referred to therein.

## References

(3) Any reference in any Act or regulation to *The Dentistry Act* shall be deemed to be a reference to this Part.

## PART III

## MEDICINE

Interpre-  
tation

**45.**—(1) In this Part,

- (a) “by-laws” means the by-laws made under this Part;
- (b) “College” means the College of Physicians and Surgeons of Ontario;
- (c) “Council” means the Council of the College;
- (d) “licence” means a licence for the practice of medicine issued under this Part;
- (e) “member” means a member of the College;

- (f) "practice of medicine" includes the practice of surgery and obstetrics;
- (g) "prescribed" means prescribed by the regulations or by-laws made under this Part;
- (h) "Registrar" means the Registrar of the College;
- (i) "regulations" means the regulations made under this Part.

(2) The practice of medicine is a health discipline to which this Part applies. Health discipline

**46.**—(1) The College of Physicians and Surgeons of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part. College of Physicians and Surgeons continued

(2) The objects of the College are, Objects

- (a) to regulate the practice of medicine and to govern its members in accordance with this Act, the regulations and the by-laws;
- (b) to establish, maintain and develop standards of knowledge and skill among its members;
- (c) to establish, maintain and develop standards of qualification and practice for the practice of medicine;
- (d) to establish, maintain and develop standards of professional ethics among its members;
- (e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act;
- (f) such other objects relating to human health care as the Council considers desirable,

in order that the public interest may be served and protected.

**47.**—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject. Membership in the College

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member. Resignation of membership



Cancellation  
for default  
of fees

(3) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the member at least two months notice of the default and intention to cancel subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct as a member.

Council of  
the College

**48.**—(1) The Council of the College is continued and shall be the governing body and board of directors of the College and shall manage and administer its affairs.

Composition  
of Council

(2) The Council shall be composed of,

- (a) one person who is appointed by the faculty of medicine of each university in Ontario that conducts a course in medicine and is authorized to grant degrees in medicine, such person to be appointed from among the members of the faculty;
- (b) not fewer than four and not more than six persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice, and are appointed by the Lieutenant Governor in Council; and
- (c) not fewer than twelve and not more than sixteen persons who are members and are elected by the members in the manner provided by the regulations.

Remuner-  
ation  
of lay  
members

(3) The persons appointed under clause *b* of subsection 2 shall be paid out of moneys appropriated therefor by the Legislature such expenses and remuneration as is determined by the Lieutenant Governor in Council.

Expiration  
of appoint-  
ment

(4) The appointment of every person appointed under subsection 2 expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment.

Qualifi-  
cations  
to vote

(5) Every member who is,

- (a) resident in Ontario;
- (b) licensed to practise medicine and not limited to practising for educational purposes only; and
- (c) not in default of payment of the prescribed annual fee,

is qualified to vote at an election of members of the Council.

(6) The Council shall elect annually a President and Vice-President from among its members. President  
Vice-  
President

(7) The Council shall appoint during pleasure a Registrar and such other officers and servants as may from time to time be necessary or desirable in the opinion of the Council to perform the work of the College. Registrar  
and  
officers

(8) A majority of the members of the Council constitutes a quorum. Quorum

(9) The members of the Council who were elected under *The Medical Act*, being chapter 268 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause c of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant. Con-  
tinuation  
of Council  
members  
under  
R.S.O. 1970,  
c. 268

**49.** In addition to his powers and duties under Part I, the Minister may. Powers of  
Minister

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

**50.** Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations. Regu-  
lations

- (a) fixing the number of members to be elected to the Council and establishing electoral districts for elections;
- (b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected to the Council, and controverted elections;
- (c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;

- (d) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences;
- (e) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (f) providing for the maintenance and inspection of registers of persons permitted to practise and for the issuance of certificates of standing by the Registrar;
- (g) governing standards of practice for the profession;
- (h) defining classes of specialists in the various branches of medicine, prescribing the qualifications required, providing for the suspension or revocation of any such designation, and for the regulation and prohibition of the use of terms, titles, or designations by members indicating specialization in any branch of medicine;
- (i) regulating the compounding, dispensing and sale of drugs by members and the containers and labelling therefor, prescribing the records that shall be kept and requiring reports to the Minister respecting such compounding, dispensing and sale;
- (j) governing the designation of life members of the College and prescribing their rights and privileges;
- (k) authorizing persons other than members to perform specified acts in the practice of medicine under the supervision or direction of a member;
- (l) prohibiting the practice of medicine where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (m) defining professional misconduct for the purposes of this Part;
- (n) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (o) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;



- (p) prescribing the minimum number of members who may constitute a clinic and the minimum range of medical services that shall be provided in a clinic;
- (q) respecting the reporting and publication of decisions in disciplinary matters;
- (r) requiring and providing for the inspection and examination of books, accounts, reports and medical records of members in connection with their practice;
- (s) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (t) respecting the duties and authority of the Registrar;
- (u) requiring the payment of fees by members and fees for licensing, examinations and continuing education, including penalties for late payment and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (v) prescribing forms and providing for their use;
- (w) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

**51.**—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing.

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;

- (g) respecting the calling, holding and conducting of meetings of the membership of the College;
- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) prescribing forms and providing for their use;
- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) providing for the establishment, maintenance and administration of a benevolent fund for needy practitioners in Ontario and the dependants of deceased members;
- (r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
- (s) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.



(2) A copy of the by-laws made under subsection 1 and <sup>idem</sup> amendments thereto,

(a) shall be forwarded to the Minister;

(b) shall be forwarded to each member; and

(c) shall be available for public inspection in the office of the College.

(3) Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting <sup>Signing by-law and resolutions</sup> of the Council duly called, constituted and held for the purpose.

**52.**—(1) No person shall engage in or hold himself out <sup>Licence to practise</sup> as engaging in the practice of medicine unless he is licensed under this Part.

(2) For the purposes of subsection 1,

<sup>Exceptions</sup>

(a) rendering first aid or temporary assistance in an emergency without fee; or

(b) the administration of household remedies by members of the patient's household,

shall be deemed not to be engaging in the practice of medicine.

(3) Subsection 1 does not apply to a student of medicine <sup>Students excepted</sup> engaging in a curriculum of studies at a medical school in a university in Ontario.

(4) For the purposes of this section, proof of the performance of one act in practice of medicine on one occasion <sup>Proof of practice</sup> is sufficient to establish engaging in the practice of medicine.

(5) A member or person authorized by the regulations may engage in the practice of medicine, notwithstanding that any part of such practice is included in the practice of any other <sup>Conflict with other health discipline</sup> health discipline.

(6) Part VI does not apply in respect of the compounding <sup>Application of Part VI</sup> and dispensing and sale of drugs by a member for his own patients in accordance with this Part and the regulations.

(7) Nothing in this Part shall be construed to affect the treatment of human ailments by the use of prayer or spiritual <sup>Faith healing</sup> means in the exercise of a religion in accordance with the tenets of an established church by the members thereof.

**53.**—(1) The Council shall establish and appoint as herein- <sup>Establishment of committees</sup> after provided the following committees,

(a) Executive Committee;

(b) Registration Committee;

- (c) Complaints Committee;
- (d) Discipline Committee;
- (e) Fitness to Practise Committee,

and may establish such other committees as the Council from time to time considers necessary.

Medical  
Review  
Committee  
1972, c. 91

(2) The Council may give the Medical Review Committee established under *The Health Insurance Act, 1972*, such other duties as the Council considers appropriate and that are not inconsistent with its duties under that Act.

Vacancies

(3) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

Executive  
Committee

**54.**—(1) The Executive Committee shall be composed of,

- (a) the President, who shall be Chairman of the Committee;
- (b) the Vice-President; and
- (c) three persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Quorum

(2) A majority of the members of the Executive Committee constitutes a quorum.

Duties

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

Regist-  
ration  
Committee

**55.**—(1) The Registration Committee shall be composed of,

- (a) one member of the Council who was appointed to the Council by a university;
- (b) two members of the Council who were elected to the Council;
- (c) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council; and
- (d) the President and Vice-President, *ex officio*.

(2) The Council shall name one member of the Registration <sup>Chairman</sup> Committee to be Chairman.

(3) A majority of the members of the Registration Com- <sup>Quorum</sup> mittee constitutes a quorum.

**56.**—(1) The Registrar shall issue a licence to any <sup>Issuance of licences</sup> applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

(2) The Registration Committee,

<sup>Powers and duties of Registration Committee</sup>

(a) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(b) may exempt an applicant from any licensing requirement.

(3) The Registration Committee may direct the Registrar <sup>Idem</sup> to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies.

(4) The Registration Committee may review the qualifica- <sup>Review of qualifications</sup> tions of any member and may impose a further term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

(5) The Registrar shall maintain one or more registers in <sup>Registers of licensees</sup> which is entered every person who is licensed to practise medicine, identifying any specialist status and the terms, conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation of a licence or recognition of specialist status and such other information as the Registration Committee or Discipline Committee directs.

(6) Every licence issued under *The Medical Act*, being <sup>Continuation of licences R.S.O. 1970, c. 268</sup> chapter 268 of the Revised Statutes of Ontario, 1970 and in effect immediately before this Part comes into force continues in the same manner as if issued under this Part.

**57.**—(1) The Complaints Committee shall be composed of, <sup>Complaints Committee</sup>

(a) two persons who are members of the College;



(b) one member of the Council who was appointed to the Council by a university;

(c) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

Idem

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

Chairman

(3) The Council shall name one member of the Complaints Committee to be its Chairman.

Quorum

(4) A majority of the members of the Complaints Committee constitutes a quorum.

Duties

**58.**—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless,

(a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(2) The Committee in accordance with the information it receives may,

(a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 62; or

(b) direct that the matter not be referred under clause *a*; or

(c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.

Decision  
and  
reasons

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8 and, where the decision is made under clause *b* of subsection 2, its reasons therefor.

Discipline  
Committee

**59.**—(1) The Discipline Committee shall be composed of ten members of the Council of whom two shall be persons appointed to the Council by the Lieutenant Governor in Council.

(2) The Council shall appoint one of the members of the <sup>Chairman</sup> Discipline Committee to be Chairman.

(3) The Chairman of the Discipline Committee may assign <sup>Composition of panels</sup> a panel of five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

(4) Where a panel of the Discipline Committee commences <sup>Disability of lay member</sup> a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

(5) Three members of a panel assigned under subsection 3, <sup>Quorum and votes</sup> of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding at the hearing, but in the event of a tie vote the chairman shall have a second or casting vote.

(6) Notwithstanding section 58, the Council or the Executive <sup>Reference by Council of Executive Committee</sup> Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member.

**60.**—(1) The Discipline Committee shall,

<sup>Duties of Discipline Committee</sup>

- (a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;
- (b) hear and determine matters referred to it under section 58, 59 or 63; and
- (c) perform such other duties as are assigned to it by the Council.

(2) In the case of hearings into allegations of professional <sup>Idem</sup> misconduct or incompetence, the Discipline Committee shall,

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.



Profes-  
sional  
misconduct

(3) A member may be found guilty of professional misconduct by the Committee if,

- (a) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;
- (b) if his rights or privileges under the *Narcotic Control Act* (Canada) or the *Food and Drugs Act* (Canada) or the regulations under either of them have been restricted or withdrawn, unless by his own request, upon proof thereof;
- (c) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined

R.S.C. 1970,  
cc. N-1,  
F-27

In-  
competence

(4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice.

Powers of  
Discipline  
Committee

(5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order,

- (a) revoke the licence of the member, or withdraw recognition of his specialist status, or both;
- (b) suspend the licence of the member or recognition of his specialist status, or both, for a stated period;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) impose such fine as the Committee considers appropriate to a maximum of \$5,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

## Costs

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes.

(7) Where the Discipline Committee revokes, suspends or restricts a licence or recognition of specialist status on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Stay on  
appeal for  
incompetence

(8) Where the Discipline Committee revokes, suspends or restricts the licence or recognition of specialist status of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned.

Stay on  
appeal for  
professional  
misconduct

(9) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member.

Service of  
decision of  
Discipline  
Committee

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

Continuation  
on expiry of  
Committee  
membership

**61.**—(1) The Fitness to Practise Committee shall be composed of twelve persons, of whom at least four shall be members of the Council and eight may be members of the College who are not members of the Council.

Fitness to  
Practise  
Committee

(2) The Council shall appoint one of the members of the Fitness to Practise Committee who is a member of the Council to be chairman of the Committee.

Chairman

(3) The chairman of the Fitness to Practise Committee may assign a panel of three members to hold a hearing, of whom at least one shall be a member who is a member of the Council, and such panel constitutes a quorum of the Committee for a hearing.

Composition  
of panels and  
quorum

(4) All decisions of the Fitness to Practise Committee require the vote of a majority of the members presiding at the hearing.

Votes

**62.**—(1) In this section,

Interpre-  
tation

(a) "board of inquiry" means a board of inquiry appointed by the Executive Committee under subsection 2.

- (b) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise or that his practice be restricted.

Reference  
to board of  
inquiry

(2) Where the Registrar receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Examination

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his licence be suspended until he complies.

Hearing by  
Fitness to  
Practise  
Committee

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Fitness to Practise Committee to hold a hearing and may suspend the member's licence until the determination of the question of his capacity becomes final.

Parties

(5) The College, the person whose capacity is being investigated and any other person specified by the Fitness to Practise Committee are parties to the hearing.

Medical  
evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

- (a) where the evidence is required by the College, at least five days before the hearing commences; and
- (b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,



and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

(7) The Fitness to Practise Committee shall, after the hearing, Powers of  
Fitness to  
Practise  
Committee

- (a) make a finding as to whether or not the member is an incapacitated member; and
- (b) where the member is found to be an incapacitated member, by order,
  - (i) revoke his licence,
  - (ii) suspend his licence for such period as the Committee considers appropriate, or
  - (iii) attach such terms and conditions to the licence as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Fitness to Practise Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Procedures

**63.**—(1) A person whose licence has been revoked or suspended for cause under this Part, or under a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or, where the suspension is for a period of more than one year, one year after the suspension. Restoration  
of licence

(2) The Registrar shall refer the application to the Discipline Committee, or, when the revocation or suspension was on the grounds of incapacity, to the Fitness to Practise Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member. Reference to  
Discipline  
Committee

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except Procedures

subsection 9 of section 11, apply, *mutatis mutandis*, to proceedings of the Fitness to Practise Committee and Discipline Committee under this section.

Direction  
by Council  
to issue  
licence

(4) Notwithstanding subsections 1, 2 and 3, the Council or the Executive Committee may direct at any time that a licence be issued to a person whose licence has previously been revoked for cause or a suspension for cause be removed, subject to such terms, conditions or limitations as the Council or Executive Committee, as the case may be, considers appropriate.

Investiga-  
tion of  
members

**64.**—(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence the Registrar may, with the approval of the Executive Committee, by order appoint one or more persons to make an investigation to ascertain whether such act has occurred, and the person appointed shall report the result of his investigation to the Registrar.

Powers of  
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. 49

Obstruction  
of  
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search  
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investiga-



tion, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated. Removal of books, etc.

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents. Admissibility of copies

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or to such other committee as he considers appropriate. Report of Registrar

**65.**—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 64, and any member of the Council or a Committee, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 64 and shall not communicate any such matters to any other person except, Matters confidential

(a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations; or

(b) as may be required for the enforcement of *The Health Insurance Act, 1972*; 1972, c. 91

(c) to his counsel; or

(d) with the consent of the person to whom the information relates.

Testimony  
in civil  
suit

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws.

Restraining  
orders

**66.**—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

Penalties

**67.**—(1) Every person who is in contravention of section 52 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Idem

(2) Every person who not being a member uses an occupational designation prescribed by the regulations to be used by members or a like designation is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

Idem

(3) Any person who obstructs a person appointed to make an investigation under section 64 in the course of his duties is guilty of an offence and on summary conviction is liable to a fine not exceeding \$2,000.

Repeals

**68.**—(1) *The Medical Act*, being chapter 268 of the Revised Statutes of Ontario, 1970, and *The Medical Amendment Act*, 1973, being chapter 129, are repealed.

References

(2) Any reference in any Act or regulation to *The Medical Act* shall be deemed to be a reference to this Part.

## PART IV

## NURSING

**69.**—(1) In this Part,Interpre-  
tation

- (a) "by-laws" means the by-laws made under this Part;
- (b) "certificate" means a current certificate issued under this Part authorizing the holder to hold himself out as competent to practise as a registered nurse or registered nursing assistant;
- (c) "College" means the College of Nurses of Ontario;
- (d) "Council" means the Council of the College;
- (e) "Director" means the Director of the College;
- (f) "member" means a member of the College;
- (g) "register" means a register maintained by the Director under this Part, and "registered" and "registration" have corresponding meanings;
- (h) "registered nurse" and "registered nursing assistant" means a person who is the holder of a certificate as a registered nurse or registered nursing assistant, respectively;
- (i) "regulations" means the regulations made under this Part.

(2) The performance of nursing services by a registered nurse or a registered nursing assistant is a health discipline to which this Part applies.

**70.**—(1) The College of Nurses of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

Objects

(2) The objects of the College are,

- (a) to regulate the practice of nursing and to govern its members in accordance with this Act, the regulations and the by-laws;
- (b) to establish, maintain and develop standards of knowledge and skill among its members;



- (c) to establish, maintain and develop standards of qualification and practice for the practice of nursing;
- (d) to establish, maintain and develop standards of professional ethics among its members;
- (e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act;
- (f) such other objects relating to human health care as the Council considers desirable,

in order that the public interest may be served and protected.

Membership  
in the  
College

**71.**—(1) Every person who is the holder of a certificate is a member of the College subject to any term, condition or limitation to which his certificate is subject.

Resignation  
of member-  
ship

(2) A member may resign his membership by filing with the Director his resignation in writing and his certificate is thereupon cancelled, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Cancellation  
for default  
of fees

(3) The Director may cancel a certificate for non-payment of any prescribed fee after giving the member at least one month's notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Council of  
the College

**72.**—(1) The Council of the College is continued and shall be the governing body and board of directors of the College and shall manage and administer its affairs.

Composition  
of Council

(2) The Council shall be composed of,

- (a) not fewer than eighteen and not more than twenty-five persons, consisting of registered nurses and registered nursing assistants in the proportions determined by the regulations, who are resident or employed in Ontario and are elected by the members in the manner provided by the regulations; and
- (b) not fewer than six and not more than eight persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice, and who are appointed by the Lieutenant Governor in Council.

Remunera-  
tion of lay  
appointees

(3) The persons appointed under clause *b* of subsection 2 shall be paid out of moneys appropriated therefor by the Legislature such expenses and remuneration as is determined by the Lieutenant Governor in Council.

(4) The appointment of every person appointed under subsection 2 expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment.

Expiration  
of appoint-  
ment

(5) Every member who is,

Qualifica-  
tions to  
vote

(a) resident or employed in Ontario; and

(b) not in default of payment of the annual fee prescribed by the regulations,

is qualified to vote at an election of members of the Council.

(6) The Council shall elect annually a President and Vice-President from among its members.

President  
and Vice-  
President

(7) The Council shall appoint during pleasure a Director and such other officers as may from time to time be necessary in the opinion of the Council to perform the work of the College and the Director shall be deemed to be the Registrar for the purposes of Part I.

Director  
and staff

(8) The Council shall meet at least twice a year.

Meetings  
of Council

(9) A majority of the members of the Council constitutes a quorum.

Quorum

(10) The members of the Council who were elected under *The Nurses Act*, being chapter 301 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause *a* of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant.

Continuation  
of Council  
members  
under  
R.S.O. 1970,  
c. 301

**73.** In addition to his powers and duties under Part I, the Minister may,

Powers of  
Minister

(a) review the activities of the Council;

(b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;

(c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.



## Regulations

**74.** Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

- (a) fixing the number of members to be elected to the Council, the proportions thereof who shall be registered nurses and registered nursing assistants and establishing the regional and other representation for elections;
- (b) respecting and governing the nomination, election and term of office of the members to be elected to the Council, the filling of vacancies on the Council and controverted elections;
- (c) respecting any matter ancillary to the provisions of this Part with regard to the issuing, renewal, suspension and revocation of certificates;
- (d) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;
- (e) providing for the maintenance and inspection of registers;
- (f) governing standards of practice for the profession;
- (g) prohibiting the practice of nursing by members where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (h) defining professional misconduct for the purposes of this Part;
- (i) providing for a program for the continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (j) respecting the reporting and publication of decisions in disciplinary matters;
- (k) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (l) respecting the duties and authority of the Director;
- (m) requiring the payment of annual fees by members and fees for certification and examinations, and prescribing the amounts thereof;

- (n) prescribing forms and providing for their use;
- (o) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

**75.**—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing, By-laws

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) respecting the calling, holding and conducting of meetings of the membership of the College;
- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) prescribing forms and providing for their use;

- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
- (r) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

Distribution  
of by-laws

- (2) A copy of the by-laws made under subsection 1 and amendments thereto,
  - (a) shall be forwarded to the Minister;
  - (b) shall be forwarded to each member; and
  - (c) shall be available for public inspection in the office of the College.

Use of  
titles

**76.**—(1) No person shall hold himself out as competent to practise as a registered nurse or as a registered nursing assistant or otherwise as the holder of a certificate under this Part unless such person is the holder of the appropriate certificate under this Part.

Idem

(2) No person shall use the title “registered nurse” or the designation “Reg.N.” or “R.N.” or other designation representing the title unless such person is the holder of a certificate as a registered nurse under this Part.

Idem

(3) No person shall use the title “registered nursing assistant” or the designation “R.N.A.” or other designation representing the title unless such person is the holder of a certificate as a registered nursing assistant under this Part.

Establish-  
ment of  
committees

**77.**—(1) The Council shall establish and appoint as herein-  
after provided the following committees,

- (a) Executive Committee;
- (b) Registration Committee;



## (c) Complaints Committee;

## (d) Discipline Committee,

and the appointments thereto shall include representation of both registered nurses and registered nursing assistants.

(2) The Council may establish such other committees as the <sup>Other Committees</sup> Council from time to time considers necessary.

(3) Where one or more vacancies occur in the membership <sup>Vacancies</sup> of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

**78.**—(1) The Executive Committee shall be composed of, <sup>Executive Committee</sup>

(a) the President, who shall be chairman of the Committee;

(b) the Vice-President; and

(c) three persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) The Executive Committee shall perform such functions <sup>Duties</sup> of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

(3) A majority of the members of the Executive Committee <sup>Quorum</sup> constitutes a quorum.

**79.**—(1) The Registration Committee shall be composed <sup>Registration Committee</sup> of nine persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) The Council shall name one member of the Registration <sup>Chairman</sup> Committee to be Chairman.

(3) A majority of the members of the Registration Com- <sup>Quorum</sup> mittee constitutes a quorum.

(4) The Registration Committee shall submit an annual <sup>Reports</sup> report of its activities to the Council and may make such other reports to the Council and Executive Committee as it considers appropriate.

Issuance of  
certificates

**80.**—(1) The Director shall issue a certificate or renewal thereof to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Director shall refer to the Registration Committee every application for a certificate or renewal thereof that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

Powers and  
duties of  
Registration  
Committee

(2) The Registration Committee,

(a) shall determine the eligibility of applicants for certificates or renewals thereof and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(b) may exempt an applicant from any requirement for certification.

Conditions of  
certificates

(3) The Registration Committee may direct the Director to issue or refuse to issue certificates and renewals or to issue certificates and renewals subject to such terms, conditions and limitations as the Committee specifies.

Refusal  
to renew

(4) For the purposes of Part I, a refusal to renew a certificate shall be deemed to be a refusal to grant the certificate.

Review of  
qualifica-  
tions

(5) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on his certificate pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

## Registers

(6) The Director shall maintain one or more registers in which is entered every person to whom a certificate has been issued identifying the terms, conditions and limitations attached to the certificate or the registration and every revocation, suspension, cancellation and expiration or other termination and every renewal of the certificate and such other information as the Registration Committee or Discipline Committee directs.

Continuance  
of registra-  
tion under  
R.S.O. 1970,  
c. 301

(7) Every person who was registered as a registered nurse or a registered nursing assistant under *The Nurses Act* being chapter 301 of the Revised Statutes of Ontario, 1970, immediately before this Part comes into force shall be deemed to be the holder of a certificate under this Part until it expires or is revoked, suspended or cancelled under this Part.

Complaints  
Committee

**81.**—(1) The Complaints Committee shall be composed of five persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.



(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee. Membership in other Committees

(3) The Council shall name one member of the Complaints Committee to be its Chairman. Chairman

(4) Three members of the Complaints Committee constitute a quorum. Quorum

**82.**—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless, Duties

(a) a written complaint has been filed with the Director and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

(2) The Committee in accordance with the information it receives may, Idem

(a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 85; or

(b) direct that the matter not be referred under clause a; or

(c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Director for the purposes of section 8 and, where the decision is made under clause b of subsection 2, its reasons therefor. Decision and reasons

**83.**—(1) The Discipline Committee shall be composed of ten persons who are members of the Council, of whom two shall be persons appointed to the Council by the Lieutenant Governor in Council. Discipline Committee

(2) Five or more members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum, and all disciplinary decisions require the vote of a majority of the members of the Discipline Committee present at the meeting. Quorum and votes

Disability  
of lay  
member

(3) Where the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

Chairman

(4) The Council shall name one member of the Discipline Committee to be its chairman.

Reference by  
Council or  
Executive  
Committee

(5) Notwithstanding section 82, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member.

Duties of  
Discipline  
Committee

**84.—**(1) The Discipline Committee shall,

- (a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;
- (b) hear and determine matters referred to it under section 82, 83 or 86; and
- (c) perform such other duties as are assigned to it by the Council.

Idem

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall,

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

Professional  
misconduct

(3) A member may be found guilty of professional misconduct by the Committee if,

- (a) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;
- (b) he is in contravention of subsection 1 of section 76; or
- (c) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

Incom-  
petence

(4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his profes-

sional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice.

(5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order, Powers of Discipline Committee

- (a) revoke the certificate of the member;
- (b) suspend the certificate of the member for a stated period;
- (c) impose such restrictions on the certificate of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) impose such fine as the Committee considers appropriate to a maximum of \$5,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes. Costs

(7) Where a certificate is suspended or restricted for a period under subsection 5, the suspension or restriction applies in respect of any renewal or right to renewal of the certificate for the duration of the period. Expiration of suspended or restricted certificate

(8) Where the Discipline Committee revokes, suspends or restricts a certificate on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Stay on appeal for incompetence

(9) Where the Discipline Committee revokes, suspends or restricts the certificate of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned. Stay on appeal for professional misconduct

(10) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member. Service of decision of Discipline Committee



Continuation  
on expiry of  
Committee  
membership

(11) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

Interpre-  
tation

**85.**—(1) In this section,

- (a) “board of inquiry” means a board of inquiry appointed by the Executive Committee under subsection 2;
- (b) “incapacitated member” means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise or that his practice be restricted.

Reference  
to board of  
inquiry

(2) Where the Director receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Examination

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his certificate be suspended until he complies.

Hearing by  
Registration  
Committee

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and may suspend the member's certificate until the determination of the question of his capacity becomes final.

Parties

(5) The board of inquiry, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to the hearing.

Medical  
evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but,

when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings.

- (a) where the evidence is required by the College, at least five days before the hearing commences; and
- (b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

(7) The Registration Committee shall, after the hearing,

Powers of  
Registration  
Committee

- (a) make a finding as to whether or not the member is an incapacitated member; and
- (b) where the member is found to be an incapacitated member, by order,
  - (i) revoke his certificate,
  - (ii) suspend his certificate for such period as the Committee considers appropriate, or
  - (iii) attach such terms and conditions to the certificate as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Procedures

**86.**---(1) A person whose certificate has been revoked or suspended for cause under this Part, or registration has been suspended or cancelled for cause under a predecessor of this Part, may apply in writing to the Director for the issuance of a certificate or removal of the suspension, but such application shall not be made sooner than one year after the revocation or cancellation, or where the suspension is for more than one year, one year after the suspension.

Restoration  
of registra-  
tion or  
certificate

(2) The Director shall refer the application to the Discipline Committee, or where the revocation or suspension was on the grounds of incapacity, to the Registration Committee, which

Reference to  
Discipline  
Committee



shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member.

#### Procedures

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 9 of section 11, apply, *mutatis mutandis*, to proceedings of the Registration Committee and Discipline Committee under this section.

#### Duties of employers of registered nurses

**87.** Every person, other than a patient, who employs a person as a registered nurse or registered nursing assistant and every agency or registry that procures employment for a person as a registered nurse or registered nursing assistant,

- (a) shall ensure that such person is the holder of an appropriate certificate under this Part; and
- (b) shall report to the College any termination of such employment for reasons purporting to constitute professional misconduct, incompetence or incapacity.

#### Restraining orders

**88.**—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

#### Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

#### Penalties

**89.**—(1) Every person who is in contravention of section 76 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

#### Idem

(2) Every person who is in contravention of section 87 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

#### Repeals

**90.**—(1) *The Nurses Act*, being chapter 301 of the Revised Statutes of Ontario, 1970 and *The Nurses Amendment Act*, 1973, being chapter 30, are repealed.

#### References

(2) Any reference in any Act or regulation to *The Nurses Act* shall be deemed to be a reference to this Part.

## PART V

## OPTOMETRY

**91.**—(1) In this Part,Interpre-  
tation

- (a) "by-laws" means the by-laws made under this Part;
- (b) "College" means the College of Optometrists of Ontario;
- (c) "Council" means the Council of the College;
- (d) "licence" means a licence for the practice of optometry issued under this Part;
- (e) "member" means a member of the College;
- (f) "practice of optometry" means the services usually performed by an optometrist, including the measurement and assessment of vision, other than by the use of drugs, except such drugs for such purposes as are prescribed by the regulations, the prescribing and dispensing of ophthalmic appliances, and prescribing and providing orthoptics for the relief or correction of any visual or muscular error or defect of the eye;
- (g) "Registrar" means the Registrar of the College;
- (h) "regulations" means the regulations made under this Part.

(2) The practice of optometry is a health discipline to which this Part applies.

Health  
discipline

**92.**—(1) The College of Optometrists of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

College of  
Optometrists  
of Ontario  
continued

(2) The objects of the College are,

Objects

- (a) to regulate the practice of optometry and to govern its members in accordance with this Act, the regulations and the by-laws;
- (b) to establish, maintain and develop standards of knowledge and skill among its members;
- (c) to establish, maintain and develop standards of qualification and practice for the practice of optometry;

- (d) to establish, maintain and develop standards of professional ethics among its members;
- (e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act,

in order that the public interest may be served and protected.

Membership  
in the  
College

**93.**—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject.

Resignation of  
membership

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Cancellation  
for default  
of fees

(3) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the member at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Council of  
the College

**94.**—(1) The Board of Directors of the College is continued as the Council of the College which shall be the governing body and board of directors of the College and shall manage and administer its affairs.

Composition  
of Council

(2) The Council shall be composed of,

- (a) one person who is appointed by the University of Waterloo from the faculty of the School of Optometry;
- (b) three persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice and are appointed by the Lieutenant Governor in Council; and
- (c) six persons who are members and are elected by the members in the manner provided by the regulations.

Remuneration  
of lay  
appointees

(3) The persons appointed under clause *b* of subsection 2 shall be paid out of moneys appropriated therefor by the Legislature such expenses and remuneration as is determined by the Lieutenant Governor in Council.



(4) The appointment of every person appointed under subsection 2 shall be for a term not exceeding three years, and a person whose appointment expires is eligible for re-appointment.

Expiration of  
appointment

(5) Every member who is,

Qualifications  
to vote

(a) resident in Ontario; and

(b) not in default of payment of the annual fee prescribed by the regulations,

is qualified to vote at an election of members of the Council.

(6) The Council shall elect annually a President and Vice-President from among its members.

President  
and Vice-  
President

(7) The Council shall appoint during pleasure a Registrar, Treasurer, Secretary and such other officers and servants as may from time to time be necessary in the opinion of the Council to perform the work of the College.

Registrar,  
Treasurer,  
Secretary  
and staff

(8) A majority of the members of the Council constitutes a quorum.

Quorum

(9) The members of the Council who were elected under *The Optometry Act*, being chapter 335 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause c of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant.

Continuation  
of Council  
members  
under  
R.S.O. 1970,  
c. 335

**95.** In addition to his powers and duties under Part I, the Minister may,

Powers of  
Minister

(a) review the activities of the Council;

(b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;

(c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

**96.** Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

Regulations

- (a) establishing electoral districts for the purposes of the election of members to the Council and respecting and governing the qualifications, nomination, election and term of office of the members to be elected, and controverted elections;
- (b) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
- (c) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences;
- (d) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (e) providing for the maintenance and inspection of registers of persons permitted to practise;
- (f) governing standards of practice for the profession;
- (g) prescribing drugs that may be used in the practice of optometry for such purposes as are specified;
- (h) providing for the designation of life members of the College and prescribing their rights and privileges;
- (i) authorizing persons other than members to perform specified acts in the practice of optometry under the supervision or direction of a member;
- (j) prohibiting the practice of optometry where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (k) defining professional misconduct for the purposes of this Part;
- (l) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (m) providing for the establishment and operation of an appraisal committee for the purposes of examining and assessing the standard of practice in the profession and reporting thereon to the Council and examining and assessing the standards of practice, qualifications and continuing education of members and making recommendations to the Registration Committee thereon;



- (n) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
- (o) respecting the reporting and publication of decisions in disciplinary matters;
- (p) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (q) respecting the duties and authority of the Registrar;
- (r) requiring and providing for the inspection and examination of the office, records and equipment of members in connection with their practice;
- (s) prescribing the records that shall be kept respecting patients;
- (t) requiring the payment of annual fees by members and fees for licensing, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (u) prescribing forms and providing for their use;
- (v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

**97.**—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing, By-laws

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;

- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) respecting the calling, holding and conducting of meetings of the membership of the College;
- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) prescribing forms and providing for their use;
- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(r) providing for the appointment of inspectors for the purposes of this Part;

(s) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

(2) A by-law is effective when it is passed by the Council but expires with the close of the next annual meeting of members of the College held after its passing, unless it is confirmed by the meeting.

Confirmation  
of by-laws

(3) A copy of the by-laws made under subsection 1 and amendments thereto,

Distribution  
of by-laws

(a) shall be forwarded to the Minister;

(b) shall be forwarded to each member; and

(c) shall be available for public inspection in the office of the College.

**98.**—(1) No person shall engage in or hold himself out as engaging in the practice of optometry unless he is licensed under this Part.

Licence to  
practice

(2) Subsection 1 does not apply to,

Exceptions

(a) a student enrolled in the School of Optometry at the University of Waterloo who practices optometry as required by the curriculum under the supervision of a member of the faculty or a member of the College;

(b) an applicant for a licence under this Part who practises optometry under the personal supervision of a member of the College for the purpose of completing qualifying studies or clinical experience required under this Part.

(3) For the purposes of subsection 1, proof of the performance of one act in the practice of optometry on one occasion is sufficient to establish engaging in the practice of optometry.

Proof of  
practice

(4) A member or person authorized by the regulations may engage in the practice of optometry, notwithstanding that any part of such practice is included in the practice of any other health discipline.

Conflict with  
other health  
discipline

**99.** No member shall use drugs in his practice, except such drugs for such purposes as are prescribed by the regulations.

Use of  
certain drugs  
prohibited



Establish-  
ment of  
committees

**100.**—(1) The Council shall establish and appoint as hereinafter provided the following committees,

- (a) Executive Committee;
- (b) Registration Committee;
- (c) Complaints Committee;
- (d) Discipline Committee,

and may establish such other committees as the Council from time to time considers necessary.

Vacancies

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

Executive  
Committee

**101.**—(1) The Executive Committee shall be composed of three persons who are members of the Council of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Quorum

(2) Two members of the Executive Committee constitute a quorum.

Duties

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

Registration  
Committee

**102.**—(1) The Registration Committee shall be composed of,

- (a) two members of the Council of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council; and
- (b) two members of the College of whom one shall be a member of the faculty of the School of Optometry of the University of Waterloo.

Chairman

(2) The Council shall name one member of the Registration Committee to be chairman.

Quorum

(3) A majority of the members of the Registration Committee constitutes a quorum.

Issuance of  
licences

**103.**—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Part and the regula-



tions and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

(2) The Registration Committee,

Powers and  
duties of  
Registration  
Committee

(a) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(b) may exempt an applicant from any licensing requirement.

(3) The Registration Committee may direct the Registrar to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies. Idem

(4) The Registration Committee may review the qualifications of any member and may impose a term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies. Review of  
qualifi-  
cations

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to practise optometry, identifying the terms, conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation of a licence and such other information as the Registration Committee or Discipline Committee directs. Registers of  
licensees

(6) Every person who was registered as an optometrist under *The Optometry Act*, being chapter 335 of the Revised Statutes of Ontario, 1970, immediately before this Part comes into force shall be deemed to be the holder of a licence under this Part for the unexpired portion of the term of the registration, unless sooner revoked, suspended or cancelled under this Part. Continuance  
of registration  
under R.S.O.  
1970, c. 335

**104.**—(1) The Complaints Committee shall be composed of, Complaints  
Committee

(a) three persons who are members of the College;

(b) two persons who are members of the Council one of whom was appointed to the Council by the Lieutenant Governor in Council.

- Idem** (2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.
- Chairman** (3) The Council shall name one member of the Complaints Committee to be its Chairman.
- Quorum** (4) Three members of the Complaints Committee constitute a quorum.
- Duties** **105.**—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless,
- (a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and
  - (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.
- Idem** (2) The Committee in accordance with the information it receives may,
- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 108; or
  - (b) direct that the matter not be referred under clause *a*; or
  - (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.
- Decision and reasons** (3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8 and, where the decision is made under clause *b* of subsection 2, its reasons therefor.
- Discipline Committee** **106.**—(1) The Discipline Committee shall be composed of,
- (a) three persons who are members of the College;
  - (b) three persons who are members of the Council, two of whom were appointed to the Council by the Lieutenant Governor in Council.
- Quorum and votes** (2) Three or more members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum, and

all disciplinary decisions require the vote of a majority of the members of the Discipline Committee present at the meeting.

(3) Where a panel of the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence. Disability of lay member

(4) The Council shall name one member of the Discipline Committee to be its chairman. Chairman

(5) Notwithstanding section 105, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member. Reference by Council or Executive Committee

**107.**—(1) The Discipline Committee shall,

Duties of Discipline Committee

- (a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;
- (b) hear and determine matters referred to it under sections 105, 106 or 109; and
- (c) perform such other duties as are assigned to it by the Council.

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall, Idem

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.



Professional  
misconduct

(3) A member may be found guilty of professional misconduct by the Committee if,

- (a) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;
- (b) he is in contravention of section 99; or
- (c) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

## Incompetence

(4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice.

Powers of  
Discipline  
Committee

(5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order,

- (a) revoke the licence of the member;
- (b) suspend the licence of the member for a stated period;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) impose such fine as the Committee considers appropriate to a maximum of \$5,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

## Costs

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes.



(7) Where the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Stay on  
appeal for  
incompetence

(8) Where the Discipline Committee revokes, suspends or restricts the licence of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned.

Stay on  
appeal for  
professional  
misconduct

(9) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member.

Service of  
decision of  
Discipline  
Committee

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

Continuation  
on expiry of  
Committee  
membership

**108.**—(1) In this section,

Interpre-  
tation

(a) "board of inquiry" means a board of inquiry appointed by the Executive Committee under sub-section 2;

(b) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise or that his practice be restricted.

(2) Where the Registrar receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Reference  
to board of  
inquiry

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit

Examination

to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his licence be suspended until he complies.

Hearing by  
Registration  
Committee

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and may suspend the member's licence until the determination of the question of his capacity becomes final.

Parties

(5) The College, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to the hearing.

Medical  
evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

(a) where the evidence is required by the College, at least five days before the hearing commences; and

(b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

Powers of  
Registration  
Committee

(7) The Registration Committee shall, after the hearing,

(a) make a finding as to whether or not the member is an incapacitated member; and

(b) where the member is found to be an incapacitated member, by order,

(i) revoke his licence,

- (ii) suspend his licence for such period as the Committee considers appropriate, or
- (iii) attach such terms and conditions to the licence as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the order. Procedures

**109.**—(1) A person whose licence has been revoked or suspended for cause under this Part, or registration has been suspended or cancelled for cause under a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or cancellation or, where the suspension is for more than one year, one year after the suspension. Restoration of licence

(2) The Registrar shall refer the application to the Discipline Committee, or where the revocation or suspension was on the grounds of incapacity to the Registration Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member. Reference to Discipline Committee

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 9 of section 11 apply, *mutatis mutandis*, to proceedings of the Registration Committee and Discipline Committee under this section. Procedures

**110.**—(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence, the Registrar may by order appoint one or more persons to make an investigation to ascertain whether such an act has occurred, and the person appointed shall report the result of his investigation to the Registrar. Investigation of members

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation Powers of investigator



1971, c. 49

is being made and may, upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation, and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

Obstruction  
of  
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search  
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of  
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Admissibility  
of copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.



(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or to such other committee as he considers appropriate. Report of Registrar

**111.**—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 110 and any member of the Council or a Committee shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 110 and shall not communicate any such matters to any other person except, Matters confidential

(a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations;

(b) as may be required for the enforcement of *The Health Insurance Act, 1972*; 1972, c. 91

(c) to his counsel; or

(d) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws. Testimony in civil suit

**112.**—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit. Restraining orders

(2) An appeal lies to the Supreme Court from an order made under subsection 1. Appeal

**113.**—(1) Nothing in this Part applies to the practice of ophthalmic dispensing by an ophthalmic dispenser registered under *The Ophthalmic Dispensers Act*. Exemption under R.S.O. 1970, c. 334

Retail  
merchants

## (2) Nothing in this Part prevents,

- (a) the sale of protective glasses for industrial purposes, coloured glasses not embodying any ophthalmic lens, goggles or simple magnifying glasses not sold or devised for the relief or correction of any visual or muscular error or defect of the eye; or
- (b) the sale or offering for sale by a retail merchant at his place of business of spectacles or eyeglasses,

but the Lieutenant Governor in Council may make regulations governing or restricting the sale or offering for sale referred to in clause *b* and prescribing the terms and conditions thereof and designating the nature and kind of spectacles and eyeglasses that may be sold under this subsection.

Penalties

**114.**—(1) Every person who is in contravention of section 98 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Idem

(2) Every person who, not being a member, uses an occupational designation prescribed by the regulations to be used by members or a like designation is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

Idem

(3) Any person who obstructs a person appointed to make an investigation under section 110 in the course of his duties is guilty of an offence and on summary conviction is liable to a fine not exceeding \$2,000.

Act,  
repealed

**115.**—(1) *The Optometry Act*, being chapter 335 of the Revised Statutes of Ontario, 1970, is repealed.

References

(2) Any reference in any Act to an optometrist registered under *The Optometry Act* shall be deemed to be a reference to an optometrist licensed under this Part and any reference to *The Optometry Act* shall be deemed to be a reference to this Part.

## PART VI

## PHARMACY

**116.—(1) In this Part,**Interpre-  
tation

- (a) "by-laws" means the by-laws made under this Part;
- (b) "College" means the Ontario College of Pharmacists;
- (c) "Council" means the Council of the College;
- (d) "drug" means any substance or preparation containing any substance,

- (i) manufactured, sold or represented for use in,

- 1. the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical or mental state or the symptoms thereof, in humans, animals or fowl, or
  - 2. restoring, correcting, or modifying functions in humans, animals or fowl,

- (ii) referred to in Schedule C, D, E, F, G or N, or

- (iii) listed in a publication named by the regulations,

- (iv) named in the regulations,

but does not include,

- (v) any substance or preparation referred to in sub-clause i, ii or iii manufactured, offered for sale or sold as, or as part of, a food, drink or cosmetic,

- (vi) any medicine registered under the *Proprietary or Patent Medicine Act* (Canada) and sold in accordance with its provisions, or

R.S.C. 1970,  
c. P-25

- (vii) a substance or preparation named in Schedule A or B;

- (e) "interchangeable pharmaceutical product" means a product containing a drug or drugs in the same



amounts of the same active ingredients in the same dosage form as that directed by a prescription;

- (f) “intern” means a person who is registered under this Part as an intern;
- (g) “licence” means a licence to act as a pharmacist issued under this Part;
- (h) “member” means a member of the College;
- (i) “Parcost C.D.I.” means the Parcost Comparative Drug Index prescribed by the regulations;
- (j) “pharmacist” means a person who is licensed under this Part as a pharmacist;
- (k) “pharmacy” means a premises in or in part of which prescriptions are compounded and dispensed for the public or drugs are sold by retail;
- (l) “prescriber” means a person who is authorized to give a prescription within the scope of his practice of a health discipline or profession;
- (m) “prescription” means a direction from a prescriber directing the dispensing of any drug or mixture of drugs for a designated person or animal;
- (n) “register” means a register maintained by the Registrar under this Part;
- (o) “registered pharmacy student” means a person who is registered under this Part as a pharmacy student;
- (p) “Registrar” means the Registrar of the College;
- (q) “registration” means a registration as an intern or registered pharmacy student and “registered” has a corresponding meaning;
- (r) “regulations” mean the regulations made under this Part.



(2) A reference in this Part to Schedules A, B, C, D, E, F, <sup>Schedules</sup> G or N is a reference to such Schedule established by the regulations for the purposes of this Part.

(3) The practice of a pharmacist is a health discipline to <sup>Health discipline</sup> which this Part applies.

**117.**—(1) This Part does not apply to, <sup>Application of Part</sup>

(a) drugs compounded, dispensed or supplied in and by a hospital or a health or custodial institution approved or licensed under any general or special Act under the authority of a prescriber for persons under health care provided by such hospital or health or custodial institution;

(b) the selling of,

(i) any substance registered under the *Pest* <sup>R.S.C. 1970, c. P-10</sup> *Control Products Act* (Canada) and sold in accordance with its provisions,

(ii) any feeding stuffs registered under the *Feeds* <sup>R.S.C. 1970, c. F-7</sup> *Act* (Canada) and sold in accordance with its provisions,

(iii) a drug by a person licensed under *The Live* <sup>1973, c. 80</sup> *Stock Medicines Act, 1973*;

(c) the practice of a veterinarian under *The Veterinarians* <sup>R.S.O. 1970, c. 480</sup> *Act*.

(2) Nothing in this Part prevents any person from selling <sup>Idem</sup> or dispensing a drug to a person authorized under this Act to dispense, prescribe or administer drugs.

#### THE ONTARIO COLLEGE OF PHARMACISTS

**118.**—(1) The Ontario College of Pharmacy is continued as the Ontario College of Pharmacists, being a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part. <sup>Ontario College of Pharmacy continued</sup>

(2) The objects of the College are, <sup>Objects</sup>

(a) to regulate the practice of pharmacists and to govern its members in accordance with this Act, the the regulations and the by-laws;

- (b) to establish, maintain and develop standards of knowledge and skill among its members;
- (c) to establish, maintain and develop standards of qualification and practice for the practice of pharmacists;
- (d) to establish, maintain and develop standards of professional ethics among its members;
- (e) to establish, maintain and develop standards for the operation of pharmacies;
- (f) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the college by or under any Act,

in order that the public interest may be served and protected.

Membership  
in the  
College

**119.**—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject.

Resignation  
of  
membership

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Cancellation  
for default  
of fees

(3) The Council may cancel a licence for non-payment of any prescribed fee after the member has been given at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Council  
of the  
College

**120.**—(1) The Council of the Ontario College of Pharmacy is continued and shall be the governing body and board of directors of the Ontario College of Pharmacists and shall manage and administer its affairs.

Composition  
of Council

(2) The Council shall be composed of,

- (a) not fewer than thirteen and not more than nineteen persons who are members and are elected by the members in the manner provided by the regulations;
- (b) not fewer than four and not more than six persons who are not members of a Council under this Act or registered or licensed under this or any other Act governing a health practice, and who are appointed by the Lieutenant Governor in Council; and

- (c) the dean of each faculty of pharmacy in Ontario or, in his absence, a representative who is a member of the faculty and of the College appointed by the dean.

(3) The persons appointed under clause *b* of subsection 2 shall be paid out of moneys appropriated therefor by the Legislature such expenses and remuneration as is determined by the Lieutenant Governor in Council. Remuneration of lay members

(4) The appointment of every person appointed under subsection 2 expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment. Expiration of appointment

(5) Every member who is, Qualifications to vote

(a) resident in Ontario; and

(b) not in default of payment of the annual fee prescribed by the regulations,

is qualified to vote at an election of members of the Council.

(6) The Council shall elect a President and Vice-President from among its members. President, Vice-President

(7) The Council shall appoint during pleasure a Registrar and may appoint a deputy registrar who shall have the powers of the Registrar for the purposes of this Part, and may appoint such other persons as are from time to time necessary or desirable in the opinion of the Council to perform the work of the College. Registrar and staff

(8) A majority of the members of the Council constitutes a quorum. Quorum

(9) The Council shall meet at least twice a year.

Meetings of Council

(10) The members of the Council of the Ontario College of Pharmacy who were elected under *The Pharmacy Act*, being chapter 348 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause *a* of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant. Continuation of Council members under R.S.O. 1970, c. 348



Powers of  
Minister

**121.** In addition to his powers and duties under Part 1, the Minister may,

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

## Regulations

**122.**—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

- (a) fixing the number of members to be elected to the Council and establishing the regional and other representation for elections;
- (b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected to the Council, and controverted elections;
- (c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
- (d) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences and registrations;
- (e) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (f) prescribing the qualifications for and conditions of registration of students and interns and governing in-service training for students and interns;
- (g) providing for the maintenance and inspection of registers;
- (h) governing standards of practice for the profession;
- (i) respecting the advertising of professional services;
- (j) prescribing the books and records to be kept, returns to be made and information to be furnished with respect to pharmacies and the practice of pharmacists and providing for the examination and audit of such books and records, as the regulations prescribe;



- (k) regulating advertising by members;
- (l) providing for the designation of honorary members of the College and prescribing their rights and privileges;
- (m) prohibiting practice by pharmacists where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (n) defining professional misconduct for the purposes of this Part;
- (o) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
- (q) respecting the reporting and publication of decisions in disciplinary matters;
- (r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (s) respecting the duties and authority of the Registrar;
- (t) requiring the payment of annual fees by members, students and interns and fees for licensing, registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (u) prescribing forms and providing for their use;
- (v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

(2) The number of members to be elected to the Council and the electoral divisions and other representation fixed and established under clause *a* of subsection 1 shall not be altered or amended more than once in any five year period.

Amendment  
of electoral  
divisions

By-laws

**123.**—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing,

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) respecting the calling, holding and conducting of meetings of the membership of the College;
- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) providing for the appointment of inspectors for the purposes of this Part;
- (m) prescribing forms and providing for their use;

- (n) providing procedures for the making, amending and revoking of the by-laws;
- (o) respecting management of the property of the College;
- (p) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
- (s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge or pharmacy education, or maintain or improve the standards of practice in pharmacy or to support and encourage public information and interest in the past and present role of pharmacy in society;
- (t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

(2) A copy of the by-laws made under subsection 1 and amendments thereto, <sup>Distribution of by-laws</sup>

- (a) shall be forwarded to the Minister;
- (b) shall be forwarded to each member; and
- (c) shall be available for public inspection in the office of the College.

**124.**—(1) Except as provided in this Part, no person shall <sup>licence to act as</sup> act or hold himself out as acting as a pharmacist unless he <sup>pharmacist</sup> is licensed under this Part.



Use of  
titles

(2) Any person who, in making or purporting to make a retail sale of a drug or substance in Schedule A or B, uses or associates therewith the title or designation of,

- (a) pharmacist;
- (b) pharmaceutical chemist;
- (c) chemist;
- (d) druggist;
- (e) apothecary,

whether or not in combination with each other or with any other term shall be deemed to be holding himself out as acting as a pharmacist for the purposes of subsection 1.

Conflict  
with other  
health  
discipline

(3) A licence shall be deemed to authorize a member to act as a pharmacist under this Part, notwithstanding that such action is included in the practice of any other health discipline.

Establish-  
ment of  
committees

**125.**—(1) The Council shall establish and appoint as hereinafter provided the following committees,

- (a) Executive Committee;
- (b) Accreditation Committee;
- (c) Registration Committee;
- (d) Complaints Committee;
- (e) Discipline Committee,

and may establish such other committees as the Council from time to time considers necessary.

Vacancies

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

Completing  
quorum

(3) Where the persons attending a meeting of any Committee duly called fail to constitute a quorum, the President may appoint such members of the Council as are required to complete the quorum to attend the meeting and act as a member of the Committee for the purposes of the meeting.



**126.**—(1) The Executive Committee shall be composed of, Executive Committee

(a) the President, who shall be Chairman of the Committee;

(b) the Vice-President; and

(c) three members of the Council appointed by the Council, one of whom shall be the immediate past president, if he is a member of Council, and one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) A majority of the members of the Executive Committee Quorum constitutes a quorum.

(3) The Executive Committee shall perform such functions Duties of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

**127.**—(1) The Registration Committee shall be composed Registration Committee of,

(a) one member of the Council who is the dean of a faculty of pharmacy, or his representative on the Council;

(b) two members of the Council who were elected to the Council; and

(c) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

(2) The Council shall name one member of the Registration Chairman Committee to be Chairman.

(3) A majority of the members of the Registration Com- Quorum mittee constitutes a quorum.

**128.**—(1) The Registrar shall issue a licence or registration Licences and registrations to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence or registration that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

Powers and  
duties of  
Registration  
Committee

(2) The Registration Committee,

- (a) shall determine the eligibility of applicants for licences and registrations and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

- (b) may exempt an applicant from any admission requirement.

Conditions  
of licences

- (3) The Registration committee may direct the Registrar to issue or refuse to issue licences or make or refuse to make registrations or to issue licences and make registrations subject to such terms, conditions and limitations as the Committee specifies.

Review of  
qualifications

- (4) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

Registers of  
licences

- (5) The Registrar shall maintain one or more registers in which is entered every person who is licensed or registered under this Part, identifying the terms, conditions and limitations attached to the licence or registration, and shall note on the register every revocation, suspension and cancellation or termination of a licence or registration and such other information as the Registration Committee or Discipline Committee directs.

Continuation  
of licences  
R.S.O. 1970,  
c. 348

- (6) Every licence and registration issued or made under *The Pharmacy Act*, being chapter 348 of the Revised Statutes of Ontario, 1970, and in effect immediately before this Part comes into force continues in the same manner as if issued or made under this Part.

Accredita-  
tion  
Committee

**129.—(1)** The Accreditation Committee shall be composed of,

- (a) three members of the Council who were elected to the Council; and
- (b) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council,

and shall exercise the powers and carry out the duties assigned to it under sections 138 and 139.

(2) No person who is a member of the Discipline Committee <sup>138</sup> shall be a member of the Accreditation Committee.

(3) The Council shall name one member of the Accreditation <sup>Chairman</sup> Committee to be Chairman.

(4) A majority of the members of the Accreditation Com- <sup>Quorum</sup> mittee constitutes a quorum.

**130.**—(1) The Complaints Committee shall be composed <sup>Complaints</sup> of, <sup>Committee</sup>

(a) three members of the Council who were elected to the Council; and

(b) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

(2) No person who is a member of the Discipline Committee <sup>Idem</sup> shall be a member of the Complaints Committee.

(3) The Council shall name one member of the Complaints <sup>Chairman</sup> Committee to be its Chairman.

(4) A majority of the members of the Complaints Com- <sup>Quorum</sup> mittee constitutes a quorum.

**131.**—(1) The Complaints Committee shall consider and <sup>Duties</sup> investigate complaints made by members of the public regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless,

(a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

(2) The Committee in accordance with the information it <sup>Idem</sup> receives may,

(a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 134; or



(b) direct that the matter not be referred under clause *a*; or

(c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.

Decision  
and  
reasons

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8 and, where the decision is made under clause *b* of subsection 2, its reasons therefor.

Discipline  
Committee

**132.**—(1) The Discipline Committee shall be composed of,

(a) four members of the Council who were elected to the Council; and

(b) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

Quorum  
and votes

(2) Three or more members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum, and all disciplinary decisions require the vote of a majority of the members of the Discipline Committee present at the meeting.

Disability  
of lay  
member

(3) Where the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

Chairman

(4) The Council shall name one member of the Discipline Committee to be its Chairman.

Reference  
by Council  
or Executive  
Committee

(5) Notwithstanding section 131, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member.

Duties of  
Discipline  
Committee

**133.**—(1) The Discipline Committee shall,

(a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;

(b) hear and determine matters referred to it under section 131, 132, 135 or 139; and

(c) perform such other duties as are assigned to it by the Council.

Idem

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall,



- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.



(3) A member may be found guilty of professional misconduct by the Committee if, Professional misconduct

- (a) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;
- (b) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

(4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his professional responsibilities a lack of knowledge, skill or judgment or disregard for the welfare of the public he serves of a nature or to an extent that demonstrates he is unfit to carry out the responsibilities of a pharmacist. Incompetence

(5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order, Powers of Discipline Committee

- (a) revoke the licence of the member;
- (b) suspend the licence of the member for a stated period not exceeding twelve months;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;

 (e) impose such fine as the Committee considers appropriate to a maximum of \$5,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund; 

- (f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

Costs

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes.

Stay on  
appeal for  
incom-  
petence

(7) Where the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Stay on  
appeal for  
professional  
misconduct

(8) Where the Discipline Committee revokes, suspends or restricts the licence of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned.

Service of  
decision of  
Discipline  
Committee

(9) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member.

Continuation  
on expiry of  
Committee  
membership

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

Interpre-  
tation

**134.—(1)** In this section,

- (a) "board of inquiry" means a board of inquiry appointed by the Executive Committee under subsection 2;
- (b) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise as a pharmacist or that his practice be restricted.

Reference  
to board  
of inquiry

(2) Where the Registrar receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and

report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

(3) The board of inquiry shall make such inquiries as it <sup>Examination</sup> considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the Executive Committee on the recommendation of the Board may order that his licence be suspended until he complies.

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and the Executive Committee may, on the recommendation of the Registration Committee, suspend the member's licence until the determination of the question of his capacity becomes final. <sup>Hearing by Registration Committee</sup>

(5) The College, the person whose capacity is being investigated and any other person specified by the Committee are <sup>Parties</sup> parties to the hearing.

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings, <sup>Medical evidence</sup>

(a) where the evidence is required by the College, at least five days before the hearing commences; and

(b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.



Powers of  
Registration  
Committee

(7) The Registration Committee shall, after the hearing,

- (a) make a finding as to whether or not the member is an incapacitated member; and
- (b) where the member is found to be an incapacitated member, by order,
  - (i) revoke his licence,
  - (ii) suspend his licence for such period as the Committee considers appropriate, or
  - (iii) attach such terms and conditions to the licence as the Committee considers appropriate.

Notice  
of orders

(8) The Registrar may give notice of an order made under this section to such persons as he considers appropriate in the public interest.

## Procedures

(9) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Restoration  
of licence

**135.**—(1) A person whose licence has been revoked for cause under this Part, or registration has been suspended or cancelled for cause under a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or cancellation or, where the suspension is for more than one year, one year after the suspension.

Reference  
to  
Discipline  
Committee

(2) The Registrar shall refer the application to the Discipline Committee, or where the revocation or suspension was on the grounds of incapacity, to the Registration Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member.

## Procedures

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 9 of section 11 apply, *mutatis mutandis*, to proceedings



of the Registration Committee and Discipline Committee under this section.

(4) Notwithstanding subsections 1, 2 and 3, the Council or the Executive Committee may direct at any time that a licence be issued to a person whose licence has previously been revoked for cause or a suspension for cause be removed, subject to such terms, conditions or limitations as the Council or Executive Committee, as the case may be, considers appropriate.

Direction  
by Council  
to issue  
licence

**136.**—(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence the Registrar may by order appoint one or more persons to make an investigation to ascertain whether such act has occurred, and the person appointed shall report the result of his investigation to the Registrar.

Investiga-  
tion of  
members

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may upon production of his appointment enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

Powers of  
investigator

1971, c. 49

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Obstruction  
of  
investigator

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with

Search  
warrant

such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of  
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Admissi-  
bility of  
copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.

Report of  
Registrar

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or such other Committee as he considers appropriate.

Matters  
confidential

**137.**—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 136, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation and shall not communicate any such matters to any other person except,

(a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations; or

1972, c. 91

(b) as may be required for the enforcement of *The Health Insurance Act, 1972*;

(c) to his counsel; or

(d) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws. Testimony in civil suit

#### PHARMACIES

**138.**—(1) No person shall establish or operate a pharmacy unless a certificate of accreditation has been issued in respect thereof. Certification of accreditation

(2) The Registrar shall issue a certificate of accreditation and renewals thereof to any applicant therefor where the applicant and the pharmacy and its proposed operation qualify under this Part and the regulations and shall refer to the Accreditation Committee every application for a certificate or renewal that he proposes to refuse or to which he considers terms, conditions or limitations should be attached. Issuance

(3) The Accreditation Committee shall determine the eligibility of the applicant and the pharmacy or proposed pharmacy and its operation and may direct the Registrar to issue or refuse to issue the accreditation certificate or to issue the accreditation certificate subject to such terms, conditions or limitations as the Committee directs. Accreditation Committee

(4) The provisions of Part I applying to hearings, review and appeals in respect of proceedings of the Registration Committee apply, *mutatis mutandis*, in respect of proceedings of the Accreditation Committee. Procedures

(5) Every certificate of accreditation issued under *The Pharmacy Act*, being chapter 348 of the Revised Statutes of Ontario, 1970, and in effect immediately before this Part comes into force continues in the same manner as if issued under this Part. Continuation of certificates R.S.O. 1970, c. 348

**139.**—(1) Where the Accreditation Committee has reason to believe that a pharmacy or its operation fails to conform to the requirements of this Part and the regulations or to any term, condition or limitation to which its certificate of accreditation is subject, the Committee may refer the matter to the Discipline Committee for a hearing and determination. Revocation of certificate of accreditation

(2) Where the Accreditation Committee refers a matter to the Discipline Committee and the Discipline Committee finds Powers of Discipline Committee



that a pharmacy or its operation fails to conform to the requirements of this Part and the regulations or to any term, condition or limitation to which its certificate of accreditation is subject, the Discipline Committee may,

- (a) suspend the certificate of accreditation for a stated period; or
- (b) revoke the certificate of accreditation.

**Procedures**

(3) The provisions of Part I and this Part applying to proceedings before the Discipline Committee in respect of professional misconduct and appeals therefrom apply to the proceedings before the Discipline Committee under this section.

**Cancellation for non-payment of fee**

(4) The Council may cancel a certificate of accreditation for non-payment of the prescribed fee after the person operating the pharmacy has been given at least two months notice of default and intention to cancel.

**Closing of pharmacy**

**140.** Every person who permanently closes a pharmacy shall immediately remove all signs and symbols relating to the practice of pharmacy either within or outside the premises, shall remove and dispose of all drugs according to law and shall submit in writing to the Registrar such information and within such time as the regulations prescribe.

**Operation of pharmacies by corporation**

**141.**—(1) No corporation shall own or operate a pharmacy unless the majority of the directors of the corporation are pharmacists.

**Idem**

(2) No corporation shall own or operate a pharmacy unless a majority of each class of shares of the corporation is owned by and registered in the name of pharmacists.

**Application of subs. 2**

(3) For the purposes of subsection 2, shares registered in the name of the personal representative of a deceased pharmacist shall, for a period not exceeding four years, be considered to be registered in the name of a pharmacist.

**Idem**

(4) Subsection 2 does not apply to any corporation operating a pharmacy on the 14th day of May, 1954.

**Application of section**

(5) This section does not apply to the operation of a pharmacy by a non-profit corporation having as its objects and providing health services by members of more than one health discipline.

**Where licence revoked**

**142.** No person whose licence as a pharmacist has been revoked for cause or while his licence is suspended for cause,

- (a) shall be employed or work in a pharmacy; or
- (b) shall act as a director or vote as a shareholder in a corporation operating a pharmacy.



**143.**—(1) No person other than a pharmacist or a corporation complying with the requirements of section 141 shall own or operate a pharmacy. Ownership of pharmacies

(2) For the purposes of the ownership of a pharmacy, or for the purposes of the composition of the board of directors or ownership of shares of a corporation as required by section 141, the right to operate the pharmacy shall not be affected by, Idem

(a) any suspension of the licence of a pharmacist; or

(b) the revocation of the licence of a pharmacist until after a period of six months has elapsed.

**144.**—(1) Where a person owning and operating a pharmacy becomes bankrupt, insolvent or makes an assignment for the benefit of creditors, he shall so notify the Registrar and the trustee in bankruptcy, liquidator or assignee, as the case may be, may own and operate the pharmacy for the purposes of the bankruptcy, insolvency or assignment. Carrying on business of bankrupt person

(2) Upon the death of a pharmacist who was owning and operating a pharmacy at the time of his death, the personal representative of such deceased person may own and operate the pharmacy for a period of four years or for such further period as the Council may authorize. Carrying on business of deceased person

(3) Every person authorized to own and operate a pharmacy under subsection 1 or 2 shall immediately upon becoming so authorized file with the Registrar evidence of his authority Notification to Registrar

**145.**—(1) No person shall operate a pharmacy unless, Supervision of pharmacist

(a) it is under the supervision of a pharmacist who is physically present; and

(b) it is managed by a pharmacist so designated by the owner of the pharmacy.

(2) Where the drugs in a pharmacy are restricted to a part of the pharmacy that is not accessible to the public in accordance with the regulations, and while such part is not in operation, clause *a* of subsection 1 does not apply to the remaining premises of the pharmacy. Exception

(3) Every pharmacist practising in a pharmacy shall publicly display his licence in the pharmacy except during such period, if any, as the licence is under suspension. Displaying licence

**146.** No person shall in connection with a retail business use the designation, Designations

(a) drug store;

- (b) pharmacy;
- (c) drug department;
- (d) drug sundries;
- (e) drug or drugs;
- (f) drug mart; or
- (g) medicines,

unless the business is an accredited pharmacy.

Inspection  
of premises

**147.**—(1) An inspector appointed under a by-law may enter any pharmacy or other shop in the performance of his duties under this Part at all reasonable times.

Inspection  
of records

(2) Any record required to be kept under this Part shall be open to inspection by any inspector appointed under a by-law.

#### DRUGS

Dispensing  
of drugs

**148.**—(1) Subject to section 153, no person other than a pharmacist or an intern or a registered pharmacy student acting under the supervision of a pharmacist who is physically present shall compound, dispense or sell any drug in a pharmacy.

Exception  
for certain  
drugs

(2) Where a pharmacist or an intern is present in the pharmacy and is available to the purchaser for consultation, subsection 1 does not apply to the sale in a pharmacy of a drug other than,

- (a) a drug requiring a prescription for sale;
- (b) a drug referred to in Part I of Schedule D; or
- (c) a drug referred to in Schedule C.

Misrepresenta-  
tion

**149.** No person shall knowingly sell any drug under the representation or pretence that it is a particular drug that it is not, or contains any substance that it does not.

Labelling  
of Sched. D  
drugs

**150.**—(1) No person shall sell a drug listed in Schedule D unless it is labelled in accordance with the regulations.

Record  
of poisons

(2) No person shall sell by retail a drug listed in Part I of Schedule D unless a record of the sale is made in such manner as the regulations prescribe.

(3) Subsections 1 and 2 do not apply to a drug when Exception it is dispensed pursuant to a prescription or forms part of the ingredients of a prescription.

**151.** Drugs referred to in Schedules D, E, F, G and N Mailing of drugs shall be sent through the mail only by registered mail.

**152.** The manager of every pharmacy shall keep or cause Records of pharmacy to be kept a record of every purchase and sale of a drug referred to in Schedule G or N in such form or manner as the regulations may prescribe.

**153.**—(1) No person shall sell by retail a substance listed Sale of Sched. B drugs in Schedule B unless it is labelled in accordance with the regulations.

(2) No person other than a pharmacist shall sell by retail Idem a substance listed in Schedule B for the prevention or treatment of an ailment, disease or physical disorder, unless it is sold in the container in which it was received by the seller.

**154.**—(1) Subject to the regulations, no person shall sell Prescription drugs by retail any drug referred to in Schedule E, F, G or N, except on prescription given in such form, in such manner and under such conditions as the regulations prescribe.

(2) Subsection 1 does not apply to drugs referred to in Exception Part II of Schedule F that are sold in a container labelled by the manufacturer as for veterinary or agricultural use or sold in a form unsuitable for human use.

**155.**—(1) Every person who dispenses a drug pursuant to Information noted on prescription a prescription shall ensure that the following information is recorded on the prescription,

- (a) the name and address of the person for whom the drug is prescribed;
- (b) the name, strength (where applicable) and quantity of the prescribed drug;
- (c) the directions for use, as prescribed;
- (d) the name and address of the prescriber;
- (e) the identity of the manufacturer of the drug dispensed;
- (f) an identification number or other designation;



(g) the signature of the person dispensing the drug and, where different, also the signature of the person receiving a verbal prescription;

(h) the date on which the drug is dispensed;

(i) the price charged.

Retention  
of records

(2) The records required under subsection 1 shall be retained for not less than six years.

Identifica-  
tion  
markings

(3) The container in which the drug is dispensed shall be marked with,

(a) the identification number that is on the prescription;

(b) the name, address and telephone number of the pharmacy in which the prescription is dispensed;

(c) the identification of the drug as to its name, its strength and its manufacturer, unless directed otherwise by the prescriber;

(d) the quantity where the drug dispensed is in solid oral dosage form;

(e) the name of the owner of the pharmacy;

(f) the date the prescription is dispensed;

(g) the name of the prescriber;

(h) the name of the person for whom it is prescribed;

(i) the directions for use as prescribed.

Copy of  
prescription

**156.**—(1) Every person in respect of whom a prescription is presented to a pharmacist to be dispensed, unless otherwise directed by the prescriber, is entitled to have a copy of it marked as such, furnished to him, his agent, or a pharmacist acting on behalf of such person or agent.

Disposal of  
prescriptions

(2) Prescriptions in a pharmacy that ceases to operate as a pharmacy shall be delivered to the persons, or agents of the persons, who presented the prescription or to another pharmacy that is reasonably readily available to such person or his agent, or failing either, to the College.

Prescription  
by doctor  
out of  
Ontario

**157.** A pharmacist may dispense a drug pursuant to a written order signed by a physician or dentist licensed to



practise in a province in Canada other than Ontario, if in the professional judgment of the pharmacist the patient requires the drug immediately, but such order shall not be refilled.

**158.**—(1) Every person who dispenses a prescription may, unless otherwise directed by the prescriber, select and dispense an interchangeable pharmaceutical product other than the one prescribed, if the interchangeable pharmaceutical product dispensed is listed as interchangeable in the Parcost C.D.I., and is lower in cost than the drug prescribed. Substitution of interchangeable product

(2) Where a drug prescribed is listed in the Parcost C.D.I. and the identity of the manufacturer is not specified by the prescriber every person who dispenses a prescription shall select and dispense an interchangeable pharmaceutical product listed in the Parcost C.D.I. Generic description

(3) No person shall knowingly supply an interchangeable product under subsection 1 or 2 at a price in excess of the cost of the lowest priced interchangeable pharmaceutical product in his inventory and the maximum dispensing fee as set out in the Parcost C.D.I. Cost

(4) No action or other proceeding lies or shall be instituted against a prescriber or pharmacist on the grounds that an interchangeable pharmaceutical product other than the one prescribed was dispensed in accordance with this section. No liability for substitution

**159.**—(1) Every person who operates or manages a pharmacy shall provide the Minister with such information from records required to be kept under section 155 as the Minister requests. Reports by pharmacists

(2) The Registrar shall provide the Minister with such information respecting substances referred to in the Schedules, except Schedule A, as the Registrar possesses and the Minister requests. Reports by Registrar

**160.**—(1) No person shall sell by wholesale any drug for the purpose of sale by retail to any person who is not entitled to sell the drug by retail. Sale of drugs by wholesale

(2) Every person supplying drugs by wholesale in Ontario shall register with the College as a drug wholesaler and furnish the Registrar with a signed statement showing, Registration by wholesalers

- (a) his full name and address, or if a corporation the name of the corporation, the names and addresses of the president and directors thereof;

(b) the principal business address,

and with respect to his places of business where drugs are handled,

(c) the address of each place of business, agent or representative in Ontario;

(d) the name of the manager or person responsible for each place of business in Ontario;

(e) the date on which he proposes to commence business at each new location in Ontario.

Furnishing  
of informa-  
tion

(3) The information required by subsection 2 shall be furnished within thirty days after this Part comes into force and thereafter at least seven days before commencing business and any change in the information required by subsection 2 shall be furnished to the Registrar within seven days of the change.

Regulations

**161.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Council may make regulations,

(a) prescribing the substances that are included in Schedules A, B, C, D, E, F, G and N for the purpose of this Part;

(b) naming substances for the purposes of clause *d* of subsection 1 of section 116 and specifying the provisions of this Act that shall apply in respect of such substances;

(c) naming publications for the purposes of clause *d* of subsection 1 of section 116;

(d) prescribing the percentage of any substance to be contained in any preparation referred to in any Schedule;

(e) prescribing the manner in which prescriptions shall be given in respect of the drugs referred to in Schedules E, F, G and N and the conditions under which such prescriptions may be given;

(f) authorizing the refilling of prescriptions without further prescription and prescribing the conditions under which prescriptions may be refilled without further prescription;

- (g) prescribing the manner in which records shall be kept of the purchase and sale of the drugs referred to in Schedules D, G and N;
- (h) pertaining to the transfer of prescriptions and the records to be kept by the transferor and the transferee;
- (i) designating substances listed in Schedule D that may be sold by persons not otherwise authorized under this Part and authorizing the sale of such substances by any persons or classes of persons not otherwise authorized under this Part and prescribing the conditions under which such substances shall be sold by such persons or classes of persons;
- (j) prescribing the labelling of substances listed in Schedule B for the purposes of section 153;
- (k) providing for the establishment and maintenance of patient record systems;
- (l) prescribing the types of containers to be used for containing any drug and the designs, specifications and labelling of containers used for containing any drug;
- (m) prescribing standards for accreditation of pharmacies including maintenance, operation, space, equipment and facilities required therefor;
- (n) providing for applications for certificates of accreditation of pharmacies, and the issuance of such certificates and their expiration and renewal and requiring the payment of fees therefor and prescribing the amounts thereof;
- (o) providing for the filing with the Registrar of information respecting the location of the place of practice and the residential address of pharmacists, the name and address of pharmacies in the Province of Ontario including the name and address of the owner and the manager of such pharmacies, and any changes thereof, and the form of such information and the time of filing;
- (p) providing for the information, instruments or documents to be filed with the Registrar by persons opening, acquiring, relocating or closing a pharmacy, the form thereof and the time of filing;
- (q) prescribing standards for the subdivision of premises so that drugs are restricted to a specified area and



so that the part of the premises to which the drugs are restricted may be rendered not accessible to the public, while the other part remains open;

- (r) regulating the handling, location and storage of drugs in a pharmacy.

Idem

(2) The Lieutenant Governor in Council may make regulations,

- (a) regulating the use of containers in which drugs may be dispensed and designating organizations to test, certify and designate containers that meet standards approved by the Minister for such purposes as may be specified in the regulations, and requiring the use of containers that are so certified and designated except under such circumstances as are prescribed;
- (b) prescribing the Parcost C.D.I. for the purpose of this Part.

#### ENFORCEMENT

Restraining orders

**162.**—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

Recovery of charges

**163.** A person who sells any drug in contravention of this Part or the regulations is not entitled to recover any charges in respect thereof.

Surrender of cancelled licence or accreditation certificate

**164.** Where a licence or certificate of accreditation is revoked or cancelled, the former holder thereof shall forthwith deliver the licence or certificate to the Registrar.

Penalties

**165.**—(1) Every person who is in contravention of section 124 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.



(2) Every person who not being a member uses an occupational designation prescribed by the regulations to be used by members or a like designation is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

(3) Every person who contravenes any provision of this Act or the regulations for which no penalty is otherwise provided is guilty of an offence and on summary conviction is liable to a fine not exceeding \$2,000.

**166.**—(1) Every owner or manager of a pharmacy is liable for every offence against this Part committed by any person in his employ or under his supervision with his permission, consent or approval, express or implied, and every director of a corporation operating a pharmacy is liable for every offence against this Part committed by any person in the employ of the corporation with his permission, consent or approval, express or implied. Responsibility of owner and manager

(2) Where any person operates a pharmacy contrary to this Part or the regulations, the owner and manager of such pharmacy, or either of them, or any director of a corporation operating a pharmacy, may be proceeded against, and prosecution or conviction of either of them is not a bar to prosecution or conviction of the other. Idem

**167.** In any prosecution under this Part,

Evidence

- (a) a certificate as to the analysis of any drug or poison purporting to be signed by a Food and Drug Analyst or Provincial Analyst is admissible in evidence as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the analyst;
- (b) any article labelled as containing any drug is admissible in evidence as *prima facie* proof that the article contains the drug described on the label;
- (c) the label of the container of a drug dispensed pursuant to a prescription is admissible in evidence as *prima facie* proof that the drug named in the prescription was dispensed;
- (d) evidence that a drug is found in a shop or place in which business is transacted is admissible as *prima facie* proof that it was kept for sale;

- (e) evidence of the publishing of a sign, title or advertisement containing the name of an establishment or the owner thereof is admissible in evidence as *prima facie* proof that the sign, title or advertisement was published by the owner of the establishment.

## Repeals

**168.**—(1) The following Acts are repealed:

1. *The Pharmacy Act*, being chapter 348 of the Revised Statutes of Ontario, 1970.
2. *The Pharmacy Amendment Act, 1972*, being chapter 99.
3. *The Pharmacy Amendment Act, 1973*, being chapter 126.

## References

(2) Any reference in any Act or regulation to a pharmaceutical chemist registered under *The Pharmacy Act* shall be deemed to be a reference to a pharmacist licensed under this Part and any reference to *The Pharmacy Act* shall be deemed to be a reference to this Part.

## MISCELLANEOUS

Commence-  
ment

**169.**—(1) This Act, except sections 1 to 5 and sections 7 to 168, comes into force on the day it receives Royal Assent.

## Idem

(2) Sections 1 to 5 and sections 7 to 168, come into force on a day to be named by proclamation of the Lieutenant Governor.

## Short title

**170.** This Act may be cited as *The Health Disciplines Act, 1974*.



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*1st Reading*

April 2nd, 1974

*2nd Reading*

April 30th, 1974

*3rd Reading*

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THE HON. F. S. MILLER  
Minister of Health

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*(Reprinted as amended by the  
Committee of the Whole House)*



# **BILL 22**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 Elizabeth II, 1974

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## **The Health Disciplines Act, 1974**

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THE HON. F. S. MILLER  
Minister of Health

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## BILL 22

1974

**The Health Disciplines Act, 1974**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**PART I****GENERAL****1. —(1) In this Act,****Interpre-  
tation**

- (a) "Board" means the Health Disciplines Board established under section 6;
- (b) "health discipline" means a health discipline to which a Part of this Act applies;
- (c) "Minister" means the Minister of Health;
- (d) "regulations" means the regulations made under this Act.

**(2) In this Part,****Idem**

- (a) "College" means the corporate body of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;
- (b) "complaints committee" means the complaints committee of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;
- (c) "Council" means the governing body of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;

(d) “discipline committee” means the discipline committee of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;

(e) “registration” means,

(i) a licence to practise a health discipline or group of health disciplines issued under a Part of this Act requiring a licence to practise, or

(ii) a certificate respecting the practising of a health discipline or group of health disciplines issued under a Part of this Act,

the issuance of which is required to be entered on the register of the appropriate College, and “registered” has a corresponding meaning.

References  
to hearings  
1971, c. 47

(3) Nothing in this Act shall be construed to require a hearing to be held within the meaning of *The Statutory Powers Procedure Act, 1971* unless the holding of a hearing is specifically referred to.

Administra-  
tion of Act

**2.** The Minister is responsible for the administration of this Act.

Duties of  
Minister

**3.—(1)** It is the duty of the Minister to ensure that the activities of health disciplines are effectively regulated and co-ordinated in the public interest, to have appropriate standards of practice developed and ensure that these are maintained and to ensure that the rights of individuals to the services provided by health disciplines of their choice are maintained and to these ends to,

(a) inquire into or direct the appropriate Council or Councils to inquire into the state of the practice of one or more health disciplines in any locality or institution;

(b) require Councils to provide such reports and information as the Minister requires for his purposes including information from the registers of the Colleges;

(c) review proposals by a Council for changes in legislation or regulations of concern to that Council;

- (d) consider the by-laws of Councils and provide advice and guidance to Councils with respect to the proposed implementation or revision of such by-laws;
- (e) request a Council to make, amend or revoke regulations respecting any of the matters specified in its applicable Part; and
- (f) review legislation respecting the provision of health services by health disciplines.

(2) Where the Minister requests in writing that a Council make, amend or revoke a regulation under clause *e* of sub-section 1 and the Council has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request.

Regulations  
by Lieutenant  
Governor in  
Council

(3) The Minister may appoint such advisory committees as he considers desirable and appropriate to assist him in carrying out his duties under this Act.

Appointment  
of advisory  
committees

4. Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health discipline, the Minister shall distribute the proposals to all health disciplines and all health disciplines are entitled to make submissions to the Minister with respect to such proposals.

Distribution  
of proposed  
changes in  
legislation  
or regulations

5. Where a College has incurred expenses in complying with the directions of the Minister under this Part, the Minister may, out of moneys appropriated therefor by the Legislature, make appropriate payments to reimburse the College in whole or in part for the expenses incurred.

Payments  
to Council

6.—(1) There is hereby established a body to be known as the Health Disciplines Board.

Health  
Disciplines  
Board

(2) The Board shall be composed of not fewer than five and not more than seven members who shall be appointed by the Lieutenant Governor in Council on the recommendation of the Minister, and the Lieutenant Governor in Council shall designate one of the members of the Board to be chairman and one to be vice-chairman.

Composition

(3) No person who is employed in the public service of Ontario or of any agency of the Crown, or who is or has been a member of a Council or who is or has been registered under this Act or any other Act governing a health practice shall be a member of the Board.

Disqualifi-  
cation



- Term** (4) The members of the first Board may be appointed for a term of one, two or three years and thereafter appointments and reappointments shall be for a term of three years.
- Vacancies** (5) Every vacancy on the Board caused by the death, resignation or incapacity of a member, may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member.
- Quorum** (6) A majority of the members of the Board constitutes a quorum.
- Remuneration** (7) The members of the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.
- Seal** (8) The Board may prescribe and adopt a seal.
- Board employees**  
R.S.O. 1970,  
c. 386 (9) Such employees as are necessary to carry out the duties of the Board under this Act shall be employed under *The Public Service Act*.
- Duties of Board** **7.—(1)** The Board shall,
- (a) conduct such hearings and perform such duties as are assigned to it by or under this or any other Act; and
  - (b) submit an annual report on its activities to the Minister and which shall include such additional information as the Minister may require and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.
- Expert advice** (2) The Board may obtain expert or professional advice in connection with a hearing or complaint but the adviser shall be a person independent of,
- (a) the parties in the case of a hearing; or
  - (b) the complainant and the member complained against in the case of a complaint,
- and in the case of a hearing, the nature of the advice shall be made known to the parties in order that they may make submissions as to the advice.
- Complaints** **8.—(1)** Where a complaints committee has made a disposition of a complaint respecting a member of its College in accordance with the provisions of the applicable Part of this



Act governing that College, the Registrar of the College shall send to the member and to the complainant by prepaid first class mail, a copy of the written decision made by the complaints committee and reasons therefor, if any, together with notice advising the complainant of his right of review under subsection 2.

(2) A complainant or the member complained against who is not satisfied with the decision made by a complaints committee disposing of a complaint, except a decision to refer a matter to the discipline committee, may within twenty days of receipt of the written decision request the Board to review the decision and the Board shall require the Registrar of the College to transmit to the Board within fifteen days of the Board's request, a record of the investigation and all such documents and things upon which the decision was based and the Board shall review the decision after giving the complainant an opportunity to state his complaint and the member an opportunity to state his answer thereto, either personally, by his agent or in writing.

Review of  
complaints

9. Where a complaint respecting a member of a College has not been disposed of by the complaints committee of the College within sixty days after the complaint is made, the Board upon application therefor may require the complaints committee to make an investigation and, where the investigation of the complaint has not been undertaken, completed and reported on to the Board by the committee within sixty days after the Board's request, the Board shall undertake such investigation and possesses all the powers of investigation that the complaints committee or the Registrar has in the applicable Part of this Act.

Investigation  
of complaint  
by Board

10.—(1) The Board may after review or investigation of a complaint under section 8 or 9 refer the complaint to the complaints committee and the Board may,

Powers of  
Board after  
review or  
investigation  
of complaint

- (a) confirm the decision, if any, made by the complaints committee;
- (b) make such recommendations to the complaints committee as the Board considers appropriate; or
- (c) require the complaints committee to take such action or proceedings as the committee is authorized to undertake under the applicable Part of this Act.

(2) Three members of the Board constitute a quorum for purposes of investigation or review of a complaint under section 8 or 9 or a hearing under section 11.

Board  
quorum

(3) The Board shall give its decision and reasons therefor in writing to the complainant and the member complained against.

Decision  
and  
reasons

Notice of  
proposal  
to refuse  
registration

11.—(1) Where a registration committee proposes to refuse to grant registration to an applicant, or proposes to attach terms, conditions or limitations to a registration, the Registrar on behalf of the committee shall serve notice of the proposal of the committee, together with written reasons therefor, on the applicant or registrant and a copy thereof to the Board.

Exemptions

(2) Subsection 1 does not apply to a refusal to grant registration to a person who was previously registered and whose registration was suspended or revoked as a result of a decision of a discipline committee.

Notice  
requiring  
hearing or  
review

(3) A notice under subsection 1 shall inform the applicant or registrant that he is entitled to a hearing by the Board or to a review by the Board of his application and documentary evidence in support thereof without oral evidence, if he mails or delivers within fifteen days after the notice under subsection 1 is served on him, notice in writing to the Board requiring a hearing or such review by the Board, as he specifies.

Powers of  
registration  
committee  
where  
hearing  
or review

(4) Where an applicant or registrant does not require a hearing or review by the Board in accordance with subsection 3, the Board shall so notify the registration committee making the proposal and the committee may carry out the proposal stated in its notice under subsection 1.

Findings  
of fact

(5) The findings of fact of the Board pursuant to a hearing or review shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

1971, c. 47

Procedures on  
hearings

(6) The provisions of subsections 2 to 5 and subsections 7 and 8 of section 12 apply *mutatis mutandis* to proceedings before the Board under this section.

Powers of  
Board  
upon hearing  
or review

(7) The Board shall, after the hearing or review,

- (a) confirm the proposed decision of the registration committee; or
- (b) require the registration committee to permit the applicant to take qualifying examinations or additional training as a condition for registration, or both as specified by the registration committee; or
- (c) require the registration committee to direct the Registrar to register the applicant on any appro-



priate register subject to such conditions as the Board considers appropriate in cases where the Board finds that the applicant meets the requirements for registration and that the committee has exercised its powers improperly; or

- (d) refer the matter back to the registration committee for further consideration and the Board may make such recommendations as it considers appropriate in the circumstances.

(8) The registration committee and the applicant or <sup>Parties</sup> registrant are parties to proceedings before the Board under this section.

(9) Any party to proceedings before the Board under this <sup>Appeals</sup> section may appeal from its decision or order to the Supreme Court in accordance with the rules of court and the provisions of section 13 apply *mutatis mutandis* as if it were an appeal from a decision or order of a discipline committee.

**12.**—(1) In proceedings before the discipline committee <sup>Parties to discipline proceedings</sup> of a College, the College and the member of the College whose conduct is being investigated in the proceedings are parties to the proceedings.

(2) A member whose conduct is being investigated in <sup>Examination of documentary evidence</sup> proceedings before a discipline committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which shall be given in evidence at the hearing.

(3) Members of a discipline committee holding a hearing <sup>Members holding hearing not to have taken part in investigation, etc.</sup> shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Council considering the referral of the matter to the discipline committee or at a previous hearing of the committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the committee may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

(4) Notwithstanding anything in *The Statutory Powers Procedure Act, 1971*, hearings of the discipline committee shall be held *in camera*, but, if the person whose conduct is being investigated requests otherwise by a notice delivered to the Registrar before the day fixed for the hearing, the committee shall conduct the hearing in public except where, <sup>*In camera* 1971, c. 47</sup>

(a) matters involving public security may be disclosed; or

(b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

Recording of evidence

(5) The oral evidence taken before a discipline committee shall be recorded and, if so required, copies or a transcript thereof shall be furnished only to the parties at their own cost.

Evidence 1971, c. 47

(6) Notwithstanding *The Statutory Powers Procedure Act, 1971* nothing is admissible in evidence before a discipline committee that would be inadmissible in a court in a civil case and the findings of a discipline committee shall be based exclusively on evidence admitted before it.

Only members at hearing to participate in decision

(7) No member of a discipline committee shall participate in a decision of the committee pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Release of documentary evidence

(8) Documents and things put in evidence at a hearing of a discipline committee shall, upon the request of the person who produced them, be released to him by the committee within a reasonable time after the matter in issue has been finally determined.

Appeal to court

**13.**—(1) Any party to proceedings before a discipline committee may appeal from its decision or order to the Supreme Court in accordance with the rules of court.

Powers of court on appeal

(2) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the committee appealed from and may exercise all powers of the committee and may direct the committee or the College to take any action which the committee or the College may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the committee, or the court may refer the matter back to the committee for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Service of notice

**14.**—(1) Except where otherwise provided, any notice or document required by this Act to be served may be served personally or by prepaid first class mail addressed to the person to whom notice is to be given at his last known address and, where notice is served by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence,



accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date.

(2) Every member of the Health Disciplines Board and of the discipline committee of a College has power to administer oaths and affirmations for the purposes of any of its proceedings.

Admin-  
istering  
oaths

15. Any statement containing information from the records required to be kept by a Registrar under any Part of this Act, purporting to be certified by the Registrar under the seal of the College is admissible in evidence in all courts as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the Registrar and without proof of the seal.

Registrar's  
certificate  
as evidence

16. No action or other proceeding for damages shall be instituted against the Board, a College, a Council, a committee or any member of the Board, Council or committee, or any officers, servants, agents or appointees of the Board, or a College for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Immunity of  
Board,  
College,  
Councils and  
committees

17. No duly registered member of a College is liable to any action arising out of negligence or malpractice in respect of professional services requested or rendered unless such action is commenced within one year from the date when the person commencing the action knew or ought to have known the fact or facts upon which he alleges negligence or malpractice.

Limitation  
for  
malpractice  
actions

18.—(1) Any person who makes or causes to be made any wilful falsification in any matter relating to a register or issues a false certificate or document with respect to registration is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000.

Falsification  
of certificates

(2) Any person who wilfully procures or attempts to procure himself to be registered under this Act by knowingly making any false representation or declaration or by making a fraudulent representation or declaration, either orally or in writing, is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 and every person knowingly aiding and assisting him therein is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000.

Offences for  
false repre-  
sentation

Onus of  
proof  
respecting  
registration

**19.** Where registration under this Act is required to permit the lawful doing of any act or thing, if in any prosecution it is proven that the accused has done such act or thing, the burden of proving that he was so registered under this Act rests upon the accused.

## PART II

### DENTISTRY

Interpre-  
tation

**20.—(1)** In this Part,

- (a) “by-laws” means the by-laws made under this Part;
- (b) “College” means the Royal College of Dental Surgeons of Ontario;
- (c) “Council” means the Council of the College;
- (d) “licence” means a licence for the practice of dentistry issued under this Part;
- (e) “member” means a member of the College;
- (f) “practice of dentistry” means any professional service usually performed by a dentist or a dental surgeon, and includes,
  - (i) the diagnosis or treatment of, and the prescribing, treating or operating for the prevention, alleviation or correction of any disease, pain, deficiency, deformity, defect, lesion, disorder or physical condition of, in or from any human tooth, jaw or adjacent structure or tissue or any injury thereto,
  - (ii) the making, producing, reproducing, constructing, fitting, furnishing, supplying, altering or repairing or prescribing or advising the use of any prosthetic denture, bridge, appliance or thing for any of the purposes indicated in subclause i, to be used in, upon or in connection with any human tooth, jaw or associated structure or tissue or in the treatment of any condition thereof, or replacing, improving or supplementing any human tooth, associated structure or tissue, and
  - (iii) the taking or making, or the giving of advice or assistance or the providing of facilities for

the taking or making of any impression, bite, cast or design preparatory to, or for the purpose of, or with a view to the making, producing, reproducing, constructing, fitting, furnishing, supplying, altering or repairing of any such prosthetic denture, bridge, appliance or thing;

(g) "Registrar" means the Registrar of the College;

(h) "regulations" means the regulations made under this Part.

(2) The practice of dentistry is a health discipline to which this Part applies. Health discipline

**21.**—(1) The Royal College of Dental Surgeons of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part. Royal College of Dental Surgeons continued

(2) The objects of the College are, Objects

(a) to regulate the practice of dentistry and to govern its members in accordance with this Act, the regulations and the by-laws;

(b) to establish, maintain and develop standards of knowledge and skill among its members;

(c) to establish, maintain and develop standards of qualification and practice for the practice of dentistry;

(d) to establish, maintain and develop standards of professional ethics among its members;

(e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act,

in order that the public interest may be served and protected.

**22.**—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject. Membership

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled, subject to the continuing jurisdiction Resignation of membership



of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Cancellation  
for default  
of fees

(3) The Registrar may cancel a licence for non-payment of any fee prescribed by the regulations after giving the member at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Council of  
College

**23.**—(1) The Board of Directors of the College is continued as the Council of the College, which shall be the governing body and board of directors of the College and shall manage and administer its affairs.

Composition  
of Council

(2) The Council shall be composed of,

- (a) not fewer than nine and not more than twelve persons who are members elected in the number and manner determined by the regulations;
- (b) not fewer than three and not more than five persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice and are appointed by the Lieutenant Governor in Council; and
- (c) one person who is appointed by the faculty of dentistry of each university in Ontario that conducts a course in dentistry and is authorized to grant degrees in dentistry, such person to be appointed from among the members of the faculty.

Remunera-  
tion of lay  
members

(3) The persons appointed under clause *b* of subsection 2 shall be paid, out of moneys appropriated therefor by the Legislature, such expenses and remuneration as is determined by the Lieutenant Governor in Council.

Expiration  
of appoint-  
ment

(4) The appointment of every person appointed under subsection 2 expires at the first meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment.

Qualifica-  
tions to  
vote

(5) Every member who,

(a) practises in Ontario; and

(b) is not in default of payment of the annual fee prescribed by the regulations,

is qualified to vote at an election of members of the Council.



(6) The Council shall elect a President and Vice-President from among its members. President and Vice-President

(7) The Council shall appoint during pleasure a Registrar and such other officers and servants as may from time to time be necessary in the opinion of the Council to perform the work of the College. Registrar, Treasurer, Secretary and staff

(8) A majority of the members of the Council constitute a quorum. Quorum

(9) The members of the Council who were elected under *The Dentistry Act*, being chapter 108 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause *a* of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant. Continuation of Council members under R.S.O. 1970, c. 108

**24.** In addition to his powers and duties under Part I, the Minister may, Powers of Minister

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

**25.** Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations, Regulations

- (a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;
- (b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected, and controverted elections;
- (c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
- (d) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences;

- (e) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (f) providing for the maintenance and inspection of registers of persons permitted to practise;
- (g) governing standards of practice for the profession;
- (h) prescribing the records that shall be kept respecting patients;
- (i) requiring and providing for the inspection and examination of the office, records and equipment of members in connection with their practice;
- (j) regulating the compounding, dispensing and sale of drugs by members and the containers and labelling therefor, prescribing the records that shall be kept and requiring reports to the Minister respecting such compounding, dispensing and sale;
- (k) defining classes of specialists in the various branches of dentistry, prescribing the qualifications required, providing for the suspension or revocation of any such designation, and for the regulation and prohibition of the use of terms, titles, or designations by members indicating specialization in any branch of dentistry;
- (l) authorizing persons other than members to perform specified acts in the practice of dentistry under the supervision or direction of a member;
- (m) prohibiting the practice of dentistry where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (n) defining professional misconduct for the purposes of this Part;
- (o) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups

or associations of members in respect to their practices;

- (g) respecting the reporting and publication of decisions in disciplinary matters;
- (r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics, for any purpose that may tend to advance scientific knowledge and maintain the standards of practice of dentistry;
- (s) respecting the duties and authority of the Registrar;
- (t) requiring the payment of annual fees by members and fees for licensing, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (u) prescribing forms for the purposes of this Part and providing for their use;
- (v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

**26.—**(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing, By-laws

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;



- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) prescribing the remuneration of the members of the Council and committees, other than persons appointed by the Lieutenant Governor in Council, and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (h) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (i) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (j) providing for a code of ethics;
- (k) providing for the appointment of inspectors for the purposes of this Part;
- (l) prescribing forms and providing for their use;
- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) respecting membership of the College in any national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;



- (r) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

(2) A copy of the by-laws made under subsection 1 and <sup>Idem</sup> amendments thereto,

(a) shall be forwarded to the Minister;

(b) shall be available for public inspection in the office of the College.

(3) Any by-law or resolution signed by all the members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for that purpose. <sup>Signing by-laws and resolutions</sup>

**27.**—(1) Where a prosthetic denture is supplied, altered or repaired by a member or under the supervision of a member as set out in subsection 11 of section 4 of *The Denture Therapists Act, 1974*, the laboratory costs incurred in respect of the supplying, altering or repairing of the prosthetic denture and all fees for services in respect thereof shall be rendered by the member and the account therefor shall show such laboratory costs separately from such fees and separately from all other charges and fees. <sup>Billing for prosthetic dentures 1974, c. 34</sup>

(2) No person is liable to pay an account to which subsection 1 applies until the account is made to comply with the requirements of subsection 1. <sup>Liability for payment</sup>

**28.**—(1) No person shall engage in or hold himself out as engaging in the practice of dentistry unless he is licensed under this Part. <sup>Licence to practise</sup>

(2) For the purposes of subsection 1, proof of the performance of one act in practice of dentistry on one occasion is sufficient to establish engaging in the practice of dentistry. <sup>Proof of practice</sup>

(3) Subsection 1 does not apply to a student of dentistry who practises dentistry within a prescribed training program under the supervision of a member who is physically present. <sup>Exception re students</sup>

(4) Nothing done in the practice of denture therapy or the practice of supervised denture therapy as defined in *The Denture Therapists Act, 1974* by a denture therapist licensed or provisionally licensed thereunder shall be deemed to be a contravention of this section. <sup>Idem</sup>

Conflict  
with other  
health  
discipline

(5) A licence shall be deemed to authorize a member to engage in the practice of dentistry, notwithstanding that any part of such practice is included in the practice of any other health discipline.

Application  
of Part VI

(6) Part VI does not apply in respect of the compounding and dispensing and sale of drugs by a member for his own patients in accordance with this Part and the regulations.

Establish-  
ment of  
committees

**29.**—(1) The Council shall establish and appoint as hereinafter provided the following committees,

(a) Executive Committee;

(b) Registration Committee;

(c) Complaints Committee;

(d) Discipline Committee,

and may establish such other committees as the Council from time to time considers necessary.

Vacancies

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

Executive  
Committee

**30.**—(1) The Executive Committee shall be composed of the President and Vice-President of the Council and not more than three other members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Quorum

(2) A majority of the members of the Executive Committee constitutes a quorum.

Duties

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

**31.**—(1) The Registration Committee shall be composed of three persons who are members of the Council, one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council. Registration Committee

(2) The Council shall name one member of the Registration Committee to be Chairman. Chairman

(3) A majority of the members of the Registration Committee constitutes a quorum. Quorum

**32.**—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he proposes to refuse or to which he considers terms, conditions or limitations should be attached. Issuance of licences

(2) The Registration Committee,

Powers and  
duties of  
Registration  
Committee

(a) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fee therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(b) may exempt an applicant from any licensing requirement.

(3) The Registration Committee may direct the Registrar to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies. Idem

(4) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study, or continuing education as the committee specifies. Review of qualifications

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to practise dentistry, identifying any specialist status and the terms, conditions and limitations attached to the licence, and shall Registers of licensees



note on the register every revocation, suspension and cancellation of a licence or recognition of specialist status and such other information as the Registration Committee or Discipline Committee directs.

**Continuation  
of licences**

R.S.O. 1970,  
c. 108

**33.** Every licence issued under *The Dentistry Act*, being chapter 108 of the Revised Statutes of Ontario, 1970, and in effect immediately before this Part comes into force continues in the same manner as if issued under this Part.

**Complaints  
Committee**

**34.**—(1) The Complaints Committee shall be composed of three persons who are members of the Council, one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.

**Idem**

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

**Chairman**

(3) The Council shall name one member of the Complaints Committee to be its Chairman.

**Quorum**

(4) A majority of the members of the Complaints Committee constitutes a quorum.

**Duties**

**35.**—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless,

- (a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and
- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

**Idem**

(2) The Committee in accordance with the information it receives may,

- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 38; or
- (b) direct that the matter not be referred under clause a; or



- (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8 and, where the decision is made under clause *b* of subsection 2, its reasons therefor Decision and reasons

**36.**— (1) The Discipline Committee shall be composed of eight members of the Council of whom two shall be persons appointed to the Council by the Lieutenant Governor in Council. Discipline Committee

(2) The Council shall appoint one of the members of the Discipline Committee to be Chairman. Chairman

(3) The Chairman of the Discipline Committee may assign a panel of five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council. Composition of panels

(4) Three members of a panel assigned under subsection 3, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding at the hearing. Quorum and votes

(5) Where a panel of the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence. Disability of lay member

(6) Notwithstanding section 35, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member. Reference by Council or Executive Committee

**37.**— (1) The Discipline Committee shall, Duties of Discipline Committee

(a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;

(b) hear and determine matters referred to it under section 35, 36 or 39; and

(c) perform such other duties as are assigned to it by the Council.

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall, Idem

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

**Professional misconduct**

(3) A member may be found guilty of professional misconduct by the Committee if,

- (a) he has been found guilty of an offence relevant to his suitability to practise upon proof of such conviction;
- (b) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

**Incompetence**

(4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice.

**Powers of Discipline Committee**

(5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order,

- (a) revoke the licence of the member or withdraw recognition of his specialist status, or both;
- (b) suspend the licence of the member or recognition of his specialist status, or both, for a stated period;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) impose such fine as the Committee considers appropriate to a maximum of \$5,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

(6) Where the Discipline Committee is of the opinion <sup>Costs</sup> that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes.

(7) Where the Discipline Committee revokes, suspends or <sup>Stay on appeal for incompetence</sup> restricts a licence or recognition of specialist status on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

(8) Where the Discipline Committee revokes, suspends or <sup>Stay on appeal for professional misconduct</sup> restricts the licence or recognition of specialist status of a member on a ground other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned.

(9) Where the Discipline Committee finds a member guilty <sup>Service of decision of Discipline Committee</sup> of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member.

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. <sup>Continuation on expiry of Committee membership</sup>

### 38.—(1) In this section, <sup>Interpretation</sup>

- (a) "board of inquiry" means a board of inquiry appointed by the Executive Committee under sub-section 2;
- (b) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise or that his practice be restricted.

(2) Where the Registrar receives information leading him <sup>Reference to board of inquiry</sup> to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to



the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

**Examination**

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his licence be suspended until he complies.

**Hearing by  
Registration  
Committee**

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and may suspend the member's licence until the determination of the question of his capacity becomes final.

**Parties**

(5) The College, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to the hearing.

**Medical  
evidence**

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

(a) where the evidence is required by the College, at least five days before the hearing commences; and

(b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

**Powers of  
Registration  
Committee**

(7) The Registration Committee shall, after the hearing,

(a) make a finding as to whether or not the member is an incapacitated member; and



(b) where the member is found to be an incapacitated member by order,

- (i) revoke his licence,
- (ii) suspend his licence for such period as the Committee considers appropriate, or
- (iii) attach such terms and conditions to the licence as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Procedures

**39.**—(1) A person whose licence has been revoked or suspended for cause under this Part, or a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or, where the suspension is for more than one year, one year after the suspension. Restoration of licence

(2) The Registrar shall refer the application to the Discipline Committee or, where the revocation or suspension was on the grounds of incapacity, to the Registration Committee which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member. Reference to Discipline Committee

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration except subsection 9 of section 11 apply, *mutatis mutandis*, to proceedings of the Registration Committee and Discipline Committee under this section. Procedures

**40.**—(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence, the Registrar may by order appoint one or more persons to make an investigation to ascertain whether such an act has occurred, and the person appointed shall report the result of his investigation to the Registrar. Investigation of members

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make Powers of investigator

1971, c. 49

the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation, and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

Obstruction  
of  
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search  
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of  
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Admissi-  
bility  
of copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding

or prosecution as *prima facie* proof of the original book, record or document and its contents.

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or such other Committee as he considers appropriate. Report of Registrar

**41.**—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 40 and any member of the Council or a Committee, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 40 and shall not communicate any such matters to any other person except, Matters confidential

(a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations;

(b) as may be required for the enforcement of *The Health Insurance Act, 1972*; 1972, c. 91

(c) to his counsel; or

(d) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws. Testimony in civil suit

**42.**—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit. Restrain- ing orders

(2) An appeal lies to the Supreme Court from an order made under subsection 1. Appeal



## Penalties

**43.**—(1) Every person who is in contravention of section 28 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

## Idem

(2) Every person who, not being a member, uses an occupational designation prescribed by the regulations to be used by members or a like designation is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

## Idem

(3) Any person who obstructs a person appointed to make an investigation under section 40 in the course of his duties is guilty of an offence and on summary conviction is liable to a fine not exceeding \$2,000.

## Repeals

**44.**—(1) *The Dentistry Act*, being chapter 108 of the Revised Statutes of Ontario, 1970, except section 12 thereof, *The Dentistry Amendment Act, 1972*, being chapter 141 and *The Dentistry Amendment Act, 1974*, being chapter 35, are repealed.

## Idem

(2) For the purposes of section 12 of *The Dentistry Act*, the Council shall be deemed to be the Board referred to therein.

## References

(3) Any reference in any Act or regulation to *The Dentistry Act* shall be deemed to be a reference to this Part.

## PART III

## MEDICINE

Interpre-  
tation

**45.**—(1) In this Part,

- (a) “by-laws” means the by-laws made under this Part;
- (b) “College” means the College of Physicians and Surgeons of Ontario;
- (c) “Council” means the Council of the College;
- (d) “licence” means a licence for the practice of medicine issued under this Part;
- (e) “member” means a member of the College;



- (f) "practice of medicine" includes the practice of surgery and obstetrics;
- (g) "prescribed" means prescribed by the regulations or by-laws made under this Part;
- (h) "Registrar" means the Registrar of the College;
- (i) "regulations" means the regulations made under this Part.

(2) The practice of medicine is a health discipline to which this Part applies. Health discipline

**46.**—(1) The College of Physicians and Surgeons of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part. College of Physicians and Surgeons continued

(2) The objects of the College are, Objects

- (a) to regulate the practice of medicine and to govern its members in accordance with this Act, the regulations and the by-laws;
- (b) to establish, maintain and develop standards of knowledge and skill among its members;
- (c) to establish, maintain and develop standards of qualification and practice for the practice of medicine;
- (d) to establish, maintain and develop standards of professional ethics among its members;
- (e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act;
- (f) such other objects relating to human health care as the Council considers desirable,

in order that the public interest may be served and protected.

**47.**—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject. Membership in the College

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member. Resignation of membership

Cancellation  
for default  
of fees

(3) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the member at least two months notice of the default and intention to cancel subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct as a member.

Council of  
the College

48.—(1) The Council of the College is continued and shall be the governing body and board of directors of the College and shall manage and administer its affairs.

Composition  
of Council

(2) The Council shall be composed of,

- (a) one person who is appointed by the faculty of medicine of each university in Ontario that conducts a course in medicine and is authorized to grant degrees in medicine, such person to be appointed from among the members of the faculty;
- (b) not fewer than four and not more than six persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice, and are appointed by the Lieutenant Governor in Council; and
- (c) not fewer than twelve and not more than sixteen persons who are members and are elected by the members in the manner provided by the regulations.

Remuner-  
ation  
of lay  
members

(3) The persons appointed under clause *b* of subsection 2 shall be paid out of moneys appropriated therefor by the Legislature such expenses and remuneration as is determined by the Lieutenant Governor in Council.

Expiration  
of appoint-  
ment

(4) The appointment of every person appointed under subsection 2 expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment.

Qualifi-  
cations  
to vote

(5) Every member who is,

- (a) resident in Ontario;
- (b) licensed to practise medicine and not limited to practising for educational purposes only; and
- (c) not in default of payment of the prescribed annual fee,

is qualified to vote at an election of members of the Council.

(6) The Council shall elect annually a President and Vice-President from among its members. President  
Vice-  
President

(7) The Council shall appoint during pleasure a Registrar and such other officers and servants as may from time to time be necessary or desirable in the opinion of the Council to perform the work of the College. Registrar  
and  
officers

(8) A majority of the members of the Council constitutes a quorum. Quorum

(9) The members of the Council who were elected under *The Medical Act*, being chapter 268 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause *c* of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant. Con-  
tinuation  
of Council  
members  
under  
R.S.O. 1970,  
c. 268

**49.** In addition to his powers and duties under Part I, the Minister may. Powers of  
Minister

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

**50.** Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations. Regu-  
lations

- (a) fixing the number of members to be elected to the Council and establishing electoral districts for elections;
- (b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected to the Council, and controverted elections;
- (c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;



- (d) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences;
- (e) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (f) providing for the maintenance and inspection of registers of persons permitted to practise and for the issuance of certificates of standing by the Registrar;
- (g) governing standards of practice for the profession;
- (h) defining classes of specialists in the various branches of medicine, prescribing the qualifications required, providing for the suspension or revocation of any such designation, and for the regulation and prohibition of the use of terms, titles, or designations by members indicating specialization in any branch of medicine;
- (i) regulating the compounding, dispensing and sale of drugs by members and the containers and labelling therefor, prescribing the records that shall be kept and requiring reports to the Minister respecting such compounding, dispensing and sale;
- (j) governing the designation of life members of the College and prescribing their rights and privileges;
- (k) authorizing persons other than members to perform specified acts in the practice of medicine under the supervision or direction of a member;
- (l) prohibiting the practice of medicine where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (m) defining professional misconduct for the purposes of this Part;
- (n) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (o) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;



- (p) prescribing the minimum number of members who may constitute a clinic and the minimum range of medical services that shall be provided in a clinic;
- (q) respecting the reporting and publication of decisions in disciplinary matters;
- (r) requiring and providing for the inspection and examination of books, accounts, reports and medical records of members in connection with their practice;
- (s) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (t) respecting the duties and authority of the Registrar;
- (u) requiring the payment of fees by members and fees for licensing, examinations and continuing education, including penalties for late payment and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (v) prescribing forms and providing for their use;
- (w) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

**51.**—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing, By-laws

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;

- (g) respecting the calling, holding and conducting of meetings of the membership of the College;
- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) prescribing forms and providing for their use;
- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) providing for the establishment, maintenance and administration of a benevolent fund for needy practitioners in Ontario and the dependants of deceased members;
- (r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
- (s) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

(2) A copy of the by-laws made under subsection 1 and amendments thereto, Idem

(a) shall be forwarded to the Minister ;

(b) shall be forwarded to each member ; and

(c) shall be available for public inspection in the office of the College.

(3) Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose. Signing by-law and resolutions

**52.**—(1) No person shall engage in or hold himself out as engaging in the practice of medicine unless he is licensed under this Part. Licence to practise

(2) For the purposes of subsection 1,

Exceptions

(a) rendering first aid or temporary assistance in an emergency without fee ; or

(b) the administration of household remedies by members of the patient's household,

shall be deemed not to be engaging in the practice of medicine.

(3) Subsection 1 does not apply to a student of medicine engaging in a curriculum of studies at a medical school in a university in Ontario. Students excepted

(4) For the purposes of this section, proof of the performance of one act in practice of medicine on one occasion is sufficient to establish engaging in the practice of medicine. Proof of practice

(5) A member or person authorized by the regulations may engage in the practice of medicine, notwithstanding that any part of such practice is included in the practice of any other health discipline. Conflict with other health discipline

(6) Part VI does not apply in respect of the compounding and dispensing and sale of drugs by a member for his own patients in accordance with this Part and the regulations. Application of Part VI

(7) Nothing in this Part shall be construed to affect the treatment of human ailments by the use of prayer or spiritual means in the exercise of a religion in accordance with the tenets of an established church by the members thereof. Faith healing

**53.**—(1) The Council shall establish and appoint as hereinafter provided the following committees, Establishment of committees

(a) Executive Committee ;

(b) Registration Committee ;



- (c) Complaints Committee;
- (d) Discipline Committee;
- (e) Fitness to Practise Committee,

and may establish such other committees as the Council from time to time considers necessary.

Medical  
Review  
Committee  
1972, c. 91

(2) The Council may give the Medical Review Committee established under *The Health Insurance Act, 1972*, such other duties as the Council considers appropriate and that are not inconsistent with its duties under that Act.

Vacancies

(3) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

Executive  
Committee

**54.**—(1) The Executive Committee shall be composed of,

- (a) the President, who shall be Chairman of the Committee;
- (b) the Vice-President; and
- (c) three persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Quorum

(2) A majority of the members of the Executive Committee constitutes a quorum.

Duties

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

Regist-  
ration  
Committee

**55.**—(1) The Registration Committee shall be composed of,

- (a) one member of the Council who was appointed to the Council by a university;
- (b) two members of the Council who were elected to the Council;
- (c) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council; and
- (d) the President and Vice-President, *ex officio*.



(2) The Council shall name one member of the Registration Chairman Committee to be Chairman.

(3) A majority of the members of the Registration Committee constitutes a quorum.

**56.**—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he proposes to refuse or to which he considers terms, conditions or limitations should be attached. Issuance of licences

(2) The Registration Committee, Powers and duties of Registration Committee

(a) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(b) may exempt an applicant from any licensing requirement

(3) The Registration Committee may direct the Registrar to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies. Idem

(4) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies. Review of qualifications

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to practise medicine, identifying any specialist status and the terms, conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation of a licence or recognition of specialist status and such other information as the Registration Committee or Discipline Committee directs. Registers of licensees

(6) Every licence issued under *The Medical Act*, being chapter 268 of the Revised Statutes of Ontario, 1970 and in effect immediately before this Part comes into force continues in the same manner as if issued under this Part. Continuation of licences R.S.O. 1970, c. 268

**57.**—(1) The Complaints Committee shall be composed of, Complaints Committee

(a) two persons who are members of the College;

(b) one member of the Council who was appointed to the Council by a university;

(c) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

Idem

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

Chairman

(3) The Council shall name one member of the Complaints Committee to be its Chairman.

Quorum

(4) A majority of the members of the Complaints Committee constitutes a quorum.

Duties

**58.**—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless,

(a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(2) The Committee in accordance with the information it receives may,

(a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 62; or

(b) direct that the matter not be referred under clause *a*; or

(c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.

Decision  
and  
reasons

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8 and, where the decision is made under clause *b* of subsection 2, its reasons therefor.

Discipline  
Committee

**59.**—(1) The Discipline Committee shall be composed of ten members of the Council of whom two shall be persons appointed to the Council by the Lieutenant Governor in Council.

(2) The Council shall appoint one of the members of the <sup>Chairman</sup> Discipline Committee to be Chairman.

(3) The Chairman of the Discipline Committee may assign <sup>Composition of panels</sup> a panel of five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

(4) Where a panel of the Discipline Committee commences <sup>Disability of lay member</sup> a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

(5) Three members of a panel assigned under subsection 3 <sup>Quorum and votes</sup> of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding at the hearing, but in the event of a tie vote the chairman shall have a second or casting vote.

(6) Notwithstanding section 58, the Council or the Executive <sup>Reference by Council or Executive Committee</sup> Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member.

**60.**—(1) The Discipline Committee shall,

<sup>Duties of Discipline Committee</sup>

- (a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;
- (b) hear and determine matters referred to it under section 58, 59 or 63; and
- (c) perform such other duties as are assigned to it by the Council.

(2) In the case of hearings into allegations of professional <sup>Idem</sup> misconduct or incompetence, the Discipline Committee shall,

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.



Profes-  
sional  
misconduct

(3) A member may be found guilty of professional misconduct by the Committee if,

- (a) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;
- (b) if his rights or privileges under the *Narcotic Control Act* (Canada) or the *Food and Drugs Act* (Canada) or the regulations under either of them have been restricted or withdrawn, unless by his own request, upon proof thereof;
- (c) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined

R.S.C. 1970,  
cc. N-1,  
F-27

In-  
competence

(4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice.

Powers of  
Discipline  
Committee

(5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order,

- (a) revoke the licence of the member, or withdraw recognition of his specialist status, or both;
- (b) suspend the licence of the member or recognition of his specialist status, or both, for a stated period;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) impose such fine as the Committee considers appropriate to a maximum of \$5,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

## Costs

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes.



(7) Where the Discipline Committee revokes, suspends or restricts a licence or recognition of specialist status on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Stay on appeal for incompetence

(8) Where the Discipline Committee revokes, suspends or restricts the licence or recognition of specialist status of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned. Stay on appeal for professional misconduct

(9) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member. Service of decision of Discipline Committee

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. Continuation on expiry of Committee membership

**61.**—(1) The Fitness to Practise Committee shall be composed of twelve persons, of whom at least four shall be members of the Council and eight may be members of the College who are not members of the Council. Fitness to Practise Committee

(2) The Council shall appoint one of the members of the Fitness to Practise Committee who is a member of the Council to be chairman of the Committee. Chairman

(3) The chairman of the Fitness to Practise Committee may assign a panel of three members to hold a hearing, of whom at least one shall be a member who is a member of the Council, and such panel constitutes a quorum of the Committee for a hearing. Composition of panels and quorum

(4) All decisions of the Fitness to Practise Committee require the vote of a majority of the members presiding at the hearing. Votes

**62.**—(1) In this section,

Interpretation

(a) "board of inquiry" means a board of inquiry appointed by the Executive Committee under subsection 2;

- (b) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise or that his practice be restricted.

Reference  
to board of  
inquiry

(2) Where the Registrar receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Examination

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his licence be suspended until he complies.

Hearing by  
Fitness to  
Practise  
Committee

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Fitness to Practise Committee to hold a hearing and may suspend the member's licence until the determination of the question of his capacity becomes final.

Parties

(5) The College, the person whose capacity is being investigated and any other person specified by the Fitness to Practise Committee are parties to the hearing.

Medical  
evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

- (a) where the evidence is required by the College, at least five days before the hearing commences; and
- (b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

(7) The Fitness to Practise Committee shall, after the hearing, Powers of  
Fitness to  
Practise  
Committee

(a) make a finding as to whether or not the member is an incapacitated member; and

(b) where the member is found to be an incapacitated member, by order,

(i) revoke his licence,

(ii) suspend his licence for such period as the Committee considers appropriate, or

(iii) attach such terms and conditions to the licence as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Fitness to Practise Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Procedures

63.—(1) A person whose licence has been revoked or suspended for cause under this Part, or under a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or, where the suspension is for a period of more than one year, one year after the suspension. Restoration  
of licence

(2) The Registrar shall refer the application to the Discipline Committee, or, when the revocation or suspension was on the grounds of incapacity, to the Fitness to Practise Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member. Reference to  
Discipline  
Committee

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except Procedures



subsection 9 of section 11, apply, *mutatis mutandis*, to proceedings of the Fitness to Practise Committee and Discipline Committee under this section.

Direction  
by Council  
to issue  
licence

(4) Notwithstanding subsections 1, 2 and 3, the Council or the Executive Committee may direct at any time that a licence be issued to a person whose licence has previously been revoked for cause or a suspension for cause be removed, subject to such terms, conditions or limitations as the Council or Executive Committee, as the case may be, considers appropriate.

Investiga-  
tion of  
members

**64.—**(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence the Registrar may, with the approval of the Executive Committee, by order appoint one or more persons to make an investigation to ascertain whether such act has occurred, and the person appointed shall report the result of his investigation to the Registrar.

Powers of  
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. 49

Obstruction  
of  
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search  
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investiga-



tion, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated. Removal of books, etc.

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents. Admissibility of copies

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or to such other committee as he considers appropriate. Report of Registrar

**65.**—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 64, and any member of the Council or a Committee, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 64 and shall not communicate any such matters to any other person except, Matters confidential

(a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations; or

(b) as may be required for the enforcement of *The Health Insurance Act, 1972*; 1972, c. 91

(c) to his counsel; or

(d) with the consent of the person to whom the information relates.

Testimony  
in civil  
suit

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws.

Restraining  
orders

**66.**—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

Penalties

**67.**—(1) Every person who is in contravention of section 52 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Idem

(2) Every person who not being a member uses an occupational designation prescribed by the regulations to be used by members or a like designation is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

Idem

(3) Any person who obstructs a person appointed to make an investigation under section 64 in the course of his duties is guilty of an offence and on summary conviction is liable to a fine not exceeding \$2,000.

Repeals

**68.**—(1) *The Medical Act*, being chapter 268 of the Revised Statutes of Ontario, 1970, and *The Medical Amendment Act, 1973*, being chapter 129, are repealed.

References

(2) Any reference in any Act or regulation to *The Medical Act* shall be deemed to be a reference to this Part.

## PART IV

## NURSING

**69.—(1)** In this Part,Interpre-  
tation

- (a) "by-laws" means the by-laws made under this Part;
- (b) "certificate" means a current certificate issued under this Part authorizing the holder to hold himself out as competent to practise as a registered nurse or registered nursing assistant;
- (c) "College" means the College of Nurses of Ontario;
- (d) "Council" means the Council of the College;
- (e) "Director" means the Director of the College;
- (f) "member" means a member of the College;
- (g) "register" means a register maintained by the Director under this Part, and "registered" and "registration" have corresponding meanings;
- (h) "registered nurse" and "registered nursing assistant" means a person who is the holder of a certificate as a registered nurse or registered nursing assistant, respectively;
- (i) "regulations" means the regulations made under this Part.

(2) The performance of nursing services by a registered nurse or a registered nursing assistant is a health discipline to which this Part applies.

**70.—(1)** The College of Nurses of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

Objects

(2) The objects of the College are,

- (a) to regulate the practice of nursing and to govern its members in accordance with this Act, the regulations and the by-laws;
- (b) to establish, maintain and develop standards of knowledge and skill among its members;



- (c) to establish, maintain and develop standards of qualification and practice for the practice of nursing;
- (d) to establish, maintain and develop standards of professional ethics among its members;
- (e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act;
- (f) such other objects relating to human health care as the Council considers desirable,

in order that the public interest may be served and protected.

**Membership  
in the  
College**

**71.**—(1) Every person who is the holder of a certificate is a member of the College subject to any term, condition or limitation to which his certificate is subject.

**Resignation  
of member-  
ship**

(2) A member may resign his membership by filing with the Director his resignation in writing and his certificate is thereupon cancelled, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

**Cancellation  
for default  
of fees**

(3) The Director may cancel a certificate for non-payment of any prescribed fee after giving the member at least one month's notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

**Council of  
the College**

**72.**—(1) The Council of the College is continued and shall be the governing body and board of directors of the College and shall manage and administer its affairs.

**Composition  
of Council**

(2) The Council shall be composed of,

- (a) not fewer than eighteen and not more than twenty-five persons, consisting of registered nurses and registered nursing assistants in the proportions determined by the regulations, who are resident or employed in Ontario and are elected by the members in the manner provided by the regulations; and
- (b) not fewer than six and not more than eight persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice, and who are appointed by the Lieutenant Governor in Council.

**Remunera-  
tion of lay  
appointees**

(3) The persons appointed under clause *b* of subsection 2 shall be paid out of moneys appropriated therefor by the Legislature such expenses and remuneration as is determined by the Lieutenant Governor in Council.



(4) The appointment of every person appointed under subsection 2 expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment.

Expiration  
of appoint-  
ment

(5) Every member who is,

Qualifica-  
tions to  
vote

(a) resident or employed in Ontario; and

(b) not in default of payment of the annual fee prescribed by the regulations,

is qualified to vote at an election of members of the Council.

(6) The Council shall elect annually a President and Vice-President from among its members.

President  
and Vice-  
President

(7) The Council shall appoint during pleasure a Director and such other officers as may from time to time be necessary in the opinion of the Council to perform the work of the College and the Director shall be deemed to be the Registrar for the purposes of Part I.

Director  
and staff

(8) The Council shall meet at least twice a year.

Meetings  
of Council

(9) A majority of the members of the Council constitutes a quorum.

Quorum

(10) The members of the Council who were elected under *The Nurses Act*, being chapter 301 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause a of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant.

Continuation  
of Council  
members  
under  
R.S.O. 1970,  
c. 301

73. In addition to his powers and duties under Part I, the Minister may,

Powers of  
Minister

(a) review the activities of the Council;

(b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;

(c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

## Regulations

**74.** Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

- (a) fixing the number of members to be elected to the Council, the proportions thereof who shall be registered nurses and registered nursing assistants and establishing the regional and other representation for elections;
- (b) respecting and governing the nomination, election and term of office of the members to be elected to the Council, the filling of vacancies on the Council and controverted elections;
- (c) respecting any matter ancillary to the provisions of this Part with regard to the issuing, renewal, suspension and revocation of certificates;
- (d) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;
- (e) providing for the maintenance and inspection of registers;
- (f) governing standards of practice for the profession;
- (g) prohibiting the practice of nursing by members where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (h) defining professional misconduct for the purposes of this Part;
- (i) providing for a program for the continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (j) respecting the reporting and publication of decisions in disciplinary matters;
- (k) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (l) respecting the duties and authority of the Director;
- (m) requiring the payment of annual fees by members and fees for certification and examinations, and prescribing the amounts thereof;

- (n) prescribing forms and providing for their use;
- (o) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

**75.**—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing.

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) respecting the calling, holding and conducting of meetings of the membership of the College;
- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) prescribing forms and providing for their use;



- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
- (r) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

Distribution  
of by-laws

(2) A copy of the by-laws made under subsection 1 and amendments thereto,

- (a) shall be forwarded to the Minister;
- (b) shall be forwarded to each member; and
- (c) shall be available for public inspection in the office of the College.

Use of  
titles

**76.**—(1) No person shall hold himself out as competent to practise as a registered nurse or as a registered nursing assistant or otherwise as the holder of a certificate under this Part unless such person is the holder of the appropriate certificate under this Part.

Idem

(2) No person shall use the title "registered nurse" or the designation "Reg.N." or "R.N." or other designation representing the title unless such person is the holder of a certificate as a registered nurse under this Part.

Idem

(3) No person shall use the title "registered nursing assistant" or the designation "R.N.A." or other designation representing the title unless such person is the holder of a certificate as a registered nursing assistant under this Part.

Establish-  
ment of  
committees

**77.**—(1) The Council shall establish and appoint as herein-after provided the following committees,

- (a) Executive Committee;
- (b) Registration Committee;



(c) Complaints Committee;

(d) Discipline Committee,

and the appointments thereto shall include representation of both registered nurses and registered nursing assistants.

(2) The Council may establish such other committees as the <sup>Other Committees</sup> Council from time to time considers necessary.

(3) Where one or more vacancies occur in the membership <sup>Vacancies</sup> of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

**78.**—(1) The Executive Committee shall be composed of, <sup>Executive Committee</sup>

(a) the President, who shall be chairman of the Committee;

(b) the Vice-President; and

(c) three persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) The Executive Committee shall perform such functions <sup>Duties</sup> of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

(3) A majority of the members of the Executive Committee <sup>Quorum</sup> constitutes a quorum.

**79.**—(1) The Registration Committee shall be composed <sup>Registration Committee</sup> of nine persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) The Council shall name one member of the Registration <sup>Chairman</sup> Committee to be Chairman.

(3) A majority of the members of the Registration Com- <sup>Quorum</sup> mittee constitutes a quorum.

(4) The Registration Committee shall submit an annual <sup>Reports</sup> report of its activities to the Council and may make such other reports to the Council and Executive Committee as it considers appropriate.

**Issuance of  
certificates**

**80.**—(1) The Director shall issue a certificate or renewal thereof to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Director shall refer to the Registration Committee every application for a certificate or renewal thereof that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

**Powers and  
duties of  
Registration  
Committee**

(2) The Registration Committee,

(a) shall determine the eligibility of applicants for certificates or renewals thereof and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(b) may exempt an applicant from any requirement for certification.

**Conditions of  
certificates**

(3) The Registration Committee may direct the Director to issue or refuse to issue certificates and renewals or to issue certificates and renewals subject to such terms, conditions and limitations as the Committee specifies.

**Refusal  
to renew**

(4) For the purposes of Part I, a refusal to renew a certificate shall be deemed to be a refusal to grant the certificate.

**Review of  
qualifica-  
tions**

(5) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on his certificate pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

**Registers**

(6) The Director shall maintain one or more registers in which is entered every person to whom a certificate has been issued identifying the terms, conditions and limitations attached to the certificate or the registration and every revocation, suspension, cancellation and expiration or other termination and every renewal of the certificate and such other information as the Registration Committee or Discipline Committee directs.

**Continuance  
of registra-  
tion under  
R.S.O. 1970,  
c. 301**

(7) Every person who was registered as a registered nurse or a registered nursing assistant under *The Nurses Act* being chapter 301 of the Revised Statutes of Ontario, 1970, immediately before this Part comes into force shall be deemed to be the holder of a certificate under this Part until it expires or is revoked, suspended or cancelled under this Part.

**Complaints  
Committee**

**81.**—(1) The Complaints Committee shall be composed of five persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee. Membership in other Committees

(3) The Council shall name one member of the Complaints Committee to be its Chairman. Chairman

(4) Three members of the Complaints Committee constitute a quorum. Quorum

**82.**—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless, Duties

(a) a written complaint has been filed with the Director and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

(2) The Committee in accordance with the information it receives may, Idem

(a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 85; or

(b) direct that the matter not be referred under clause a; or

(c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Director for the purposes of section 8 and, where the decision is made under clause b of subsection 2, its reasons therefor. Decision and reasons

**83.**—(1) The Discipline Committee shall be composed of ten persons who are members of the Council, of whom two shall be persons appointed to the Council by the Lieutenant Governor in Council. Discipline Committee

(2) Five or more members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum, and all disciplinary decisions require the vote of a majority of the members of the Discipline Committee present at the meeting. Quorum and votes



Disability  
of lay  
member

(3) Where the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

Chairman

(4) The Council shall name one member of the Discipline Committee to be its chairman.

Reference by  
Council or  
Executive  
Committee

(5) Notwithstanding section 82, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member.

Duties of  
Discipline  
Committee

**84.**—(1) The Discipline Committee shall,

- (a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;
- (b) hear and determine matters referred to it under section 82, 83 or 86; and
- (c) perform such other duties as are assigned to it by the Council.

Idem

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall,

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

Professional  
misconduct

(3) A member may be found guilty of professional misconduct by the Committee if,

- (a) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;
- (b) he is in contravention of subsection 1 of section 76; or
- (c) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

Incom-  
petence

(4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his profes-



sional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice.

(5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order, Powers of Discipline Committee

- (a) revoke the certificate of the member;
- (b) suspend the certificate of the member for a stated period;
- (c) impose such restrictions on the certificate of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) impose such fine as the Committee considers appropriate to a maximum of \$5,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes. Costs

(7) Where a certificate is suspended or restricted for a period under subsection 5, the suspension or restriction applies in respect of any renewal or right to renewal of the certificate for the duration of the period. Expiration of suspended or restricted certificate

(8) Where the Discipline Committee revokes, suspends or restricts a certificate on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Stay on appeal for incompetence

(9) Where the Discipline Committee revokes, suspends or restricts the certificate of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned. Stay on appeal for professional misconduct

(10) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member. Service of decision of Discipline Committee

Continuation  
on expiry of  
Committee  
membership

(11) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

Interpre-  
tation

**85.—(1)** In this section,

- (a) “board of inquiry” means a board of inquiry appointed by the Executive Committee under subsection 2;
- (b) “incapacitated member” means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise or that his practice be restricted.

Reference  
to board of  
inquiry

(2) Where the Director receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Examination

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his certificate be suspended until he complies.

Hearing by  
Registration  
Committee

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and may suspend the member's certificate until the determination of the question of his capacity becomes final.

Parties

(5) The board of inquiry, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to the hearing.

Medical  
evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but,



when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

- (a) where the evidence is required by the College, at least five days before the hearing commences; and
- (b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

(7) The Registration Committee shall, after the hearing,

Powers of  
Registration  
Committee

- (a) make a finding as to whether or not the member is an incapacitated member; and
- (b) where the member is found to be an incapacitated member, by order,
  - (i) revoke his certificate,
  - (ii) suspend his certificate for such period as the Committee considers appropriate, or
  - (iii) attach such terms and conditions to the certificate as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Procedures

**86.**—(1) A person whose certificate has been revoked or suspended for cause under this Part, or registration has been suspended or cancelled for cause under a predecessor of this Part, may apply in writing to the Director for the issuance of a certificate or removal of the suspension, but such application shall not be made sooner than one year after the revocation or cancellation, or where the suspension is for more than one year, one year after the suspension.

Restoration  
of registra-  
tion or  
certificate

(2) The Director shall refer the application to the Discipline Committee, or where the revocation or suspension was on the grounds of incapacity, to the Registration Committee, which

Reference to  
Discipline  
Committee

shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member.

## Procedures

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 9 of section 11, apply, *mutatis mutandis*, to proceedings of the Registration Committee and Discipline Committee under this section.

## Duties of employers of registered nurses

**87.** Every person, other than a patient, who employs a person as a registered nurse or registered nursing assistant and every agency or registry that procures employment for a person as a registered nurse or registered nursing assistant,

(a) shall ensure that such person is the holder of an appropriate certificate under this Part; and

(b) shall report to the College any termination of such employment for reasons purporting to constitute professional misconduct, incompetence or incapacity.

## Restraining orders

**88.**—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

## Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

## Penalties

**89.**—(1) Every person who is in contravention of section 76 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

## Idem

(2) Every person who is in contravention of section 87 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

## Repeals

**90.**—(1) *The Nurses Act*, being chapter 301 of the Revised Statutes of Ontario, 1970 and *The Nurses Amendment Act*, 1973, being chapter 30, are repealed.

## References

(2) Any reference in any Act or regulation to *The Nurses Act* shall be deemed to be a reference to this Part.



## PART V

## OPTOMETRY

91. (1) In this Part,

Interpre-  
tation

- (a) "by-laws" means the by-laws made under this Part;
- (b) "College" means the College of Optometrists of Ontario;
- (c) "Council" means the Council of the College;
- (d) "licence" means a licence for the practice of optometry issued under this Part;
- (e) "member" means a member of the College;
- (f) "practice of optometry" means the services usually performed by an optometrist, including the measurement and assessment of vision, other than by the use of drugs, except such drugs for such purposes as are prescribed by the regulations, the prescribing and dispensing of ophthalmic appliances, and prescribing and providing orthoptics for the relief or correction of any visual or muscular error or defect of the eye;
- (g) "Registrar" means the Registrar of the College;
- (h) "regulations" means the regulations made under this Part.

(2) The practice of optometry is a health discipline to which this Part applies.

Health  
discipline

92.—(1) The College of Optometrists of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

College of  
Optometrists  
of Ontario  
continued

(2) The objects of the College are,

Objects

- (a) to regulate the practice of optometry and to govern its members in accordance with this Act, the regulations and the by-laws;
- (b) to establish, maintain and develop standards of knowledge and skill among its members;
- (c) to establish, maintain and develop standards of qualification and practice for the practice of optometry;

(d) to establish, maintain and develop standards of professional ethics among its members;

(e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act,

in order that the public interest may be served and protected.

Membership  
in the  
College

**93.**—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject.

Resignation of  
membership

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Cancellation  
for default  
of fees

(3) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the member at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Council of  
the College

**94.**—(1) The Board of Directors of the College is continued as the Council of the College which shall be the governing body and board of directors of the College and shall manage and administer its affairs.

Composition  
of Council

(2) The Council shall be composed of,

(a) one person who is appointed by the University of Waterloo from the faculty of the School of Optometry;

(b) three persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice and are appointed by the Lieutenant Governor in Council; and

(c) six persons who are members and are elected by the members in the manner provided by the regulations.

Remuneration  
of lay  
appointees

(3) The persons appointed under clause *b* of subsection 2 shall be paid out of moneys appropriated therefor by the Legislature such expenses and remuneration as is determined by the Lieutenant Governor in Council.

(4) The appointment of every person appointed under subsection 2 shall be for a term not exceeding three years, and a person whose appointment expires is eligible for re-appointment.

Expiration of  
appointment

(5) Every member who is,

Qualifications  
to vote

(a) resident in Ontario; and

(b) not in default of payment of the annual fee prescribed by the regulations,

is qualified to vote at an election of members of the Council.

(6) The Council shall elect annually a President and Vice-President from among its members.

President  
and Vice-  
President

(7) The Council shall appoint during pleasure a Registrar, Treasurer, Secretary and such other officers and servants as may from time to time be necessary in the opinion of the Council to perform the work of the College.

Registrar,  
Treasurer,  
Secretary  
and staff

(8) A majority of the members of the Council constitutes a quorum.

Quorum

(9) The members of the Council who were elected under *The Optometry Act*, being chapter 335 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause c of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant.

Continuation  
of Council  
members  
under  
R.S.O. 1970,  
c. 335

**95.** In addition to his powers and duties under Part I, the Minister may,

Powers of  
Minister

(a) review the activities of the Council;

(b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;

(c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

**96.** Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

Regulations



- (a) establishing electoral districts for the purposes of the election of members to the Council and respecting and governing the qualifications, nomination, election and term of office of the members to be elected, and controverted elections;
- (b) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
- (c) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences;
- (d) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (e) providing for the maintenance and inspection of registers of persons permitted to practise;
- (f) governing standards of practice for the profession;
- (g) prescribing drugs that may be used in the practice of optometry for such purposes as are specified;
- (h) providing for the designation of life members of the College and prescribing their rights and privileges;
- (i) authorizing persons other than members to perform specified acts in the practice of optometry under the supervision or direction of a member;
- (j) prohibiting the practice of optometry where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (k) defining professional misconduct for the purposes of this Part;
- (l) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (m) providing for the establishment and operation of an appraisal committee for the purposes of examining and assessing the standard of practice in the profession and reporting thereon to the Council and examining and assessing the standards of practice, qualifications and continuing education of members and making recommendations to the Registration Committee thereon;



- (n) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
- (o) respecting the reporting and publication of decisions in disciplinary matters;
- (p) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (q) respecting the duties and authority of the Registrar;
- (r) requiring and providing for the inspection and examination of the office, records and equipment of members in connection with their practice;
- (s) prescribing the records that shall be kept respecting patients;
- (t) requiring the payment of annual fees by members and fees for licensing, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (u) prescribing forms and providing for their use;
- (v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

**97.**—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing.

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;

- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) respecting the calling, holding and conducting of meetings of the membership of the College;
- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) prescribing forms and providing for their use;
- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(r) providing for the appointment of inspectors for the purposes of this Part;

(s) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

(2) A by-law is effective when it is passed by the Council but expires with the close of the next annual meeting of members of the College held after its passing, unless it is confirmed by the meeting. Confirmation  
of by-laws

(3) A copy of the by-laws made under subsection 1 and amendments thereto, Distribution  
of by-laws

(a) shall be forwarded to the Minister;

(b) shall be forwarded to each member; and

(c) shall be available for public inspection in the office of the College.

**98.**—(1) No person shall engage in or hold himself out as engaging in the practice of optometry unless he is licensed under this Part. Licence to  
practise

(2) Subsection 1 does not apply to, Exceptions

(a) a student enrolled in the School of Optometry at the University of Waterloo who practices optometry as required by the curriculum under the supervision of a member of the faculty or a member of the College;

(b) an applicant for a licence under this Part who practises optometry under the personal supervision of a member of the College for the purpose of completing qualifying studies or clinical experience required under this Part.

(3) For the purposes of subsection 1, proof of the performance of one act in the practice of optometry on one occasion is sufficient to establish engaging in the practice of optometry. Proof of  
practice

(4) A member or person authorized by the regulations may engage in the practice of optometry, notwithstanding that any part of such practice is included in the practice of any other health discipline. Conflict with  
other health  
discipline

**99.** No member shall use drugs in his practice, except such drugs for such purposes as are prescribed by the regulations. Use of  
certain drugs  
prohibited



Establish-  
ment of  
committees

**100.**—(1) The Council shall establish and appoint as hereinafter provided the following committees,

- (a) Executive Committee;
- (b) Registration Committee;
- (c) Complaints Committee;
- (d) Discipline Committee,

and may establish such other committees as the Council from time to time considers necessary.

Vacancies

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

Executive  
Committee

**101.**—(1) The Executive Committee shall be composed of three persons who are members of the Council of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Quorum

(2) Two members of the Executive Committee constitute a quorum.

Duties

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

Registration  
Committee

**102.**—(1) The Registration Committee shall be composed of,

- (a) two members of the Council of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council; and
- (b) two members of the College of whom one shall be a member of the faculty of the School of Optometry of the University of Waterloo.

Chairman

(2) The Council shall name one member of the Registration Committee to be chairman.

Quorum

(3) A majority of the members of the Registration Committee constitutes a quorum.

Issuance of  
licences

**103.**—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Part and the regula-



tions and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

(2) The Registration Committee,

Powers and  
duties of  
Registration  
Committee

(a) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(b) may exempt an applicant from any licensing requirement.

(3) The Registration Committee may direct the Registrar <sup>idem</sup> to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies.

(4) The Registration Committee may review the qualifications of any member and may impose a term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies. <sup>Review of  
qualifications</sup>

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to practise optometry, identifying the terms, conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation of a licence and such other information as the Registration Committee or Discipline Committee directs. <sup>Registers of  
licensees</sup>

(6) Every person who was registered as an optometrist under *The Optometry Act*, being chapter 335 of the Revised Statutes of Ontario, 1970, immediately before this Part comes into force shall be deemed to be the holder of a licence under this Part for the unexpired portion of the term of the registration, unless sooner revoked, suspended or cancelled under this Part. <sup>Continuance  
of registration  
under R.S.O.  
1970, c. 335</sup>

**104.**—(1) The Complaints Committee shall be composed of, <sup>Complaints  
Committee</sup>

(a) three persons who are members of the College;

(b) two persons who are members of the Council one of whom was appointed to the Council by the Lieutenant Governor in Council.

**Idem** (2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

**Chairman** (3) The Council shall name one member of the Complaints Committee to be its Chairman.

**Quorum** (4) Three members of the Complaints Committee constitute a quorum.

**Duties** **105.**—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless,

(a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

**Idem** (2) The Committee in accordance with the information it receives may,

(a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 108; or

(b) direct that the matter not be referred under clause *a*; or

(c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.

**Decision  
and  
reasons**

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8 and, where the decision is made under clause *b* of subsection 2, its reasons therefor.

**Discipline  
Committee**

**106.**—(1) The Discipline Committee shall be composed of,

(a) three persons who are members of the College;

(b) three persons who are members of the Council, two of whom were appointed to the Council by the Lieutenant Governor in Council.

**Quorum and  
votes**

(2) Three or more members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum, and

all disciplinary decisions require the vote of a majority of the members of the Discipline Committee present at the meeting.

(3) Where a panel of the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence. Disability of lay member

(4) The Council shall name one member of the Discipline Committee to be its chairman. Chairman

(5) Notwithstanding section 105, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member. Reference by Council or Executive Committee

**107.**—(1) The Discipline Committee shall, Duties of Discipline Committee

(a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;

(b) hear and determine matters referred to it under sections 105, 106 or 109; and

(c) perform such other duties as are assigned to it by the Council.

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall, Idem

(a) consider the allegations, hear the evidence and ascertain the facts of the case;

(b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;

(c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;

(d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.



Professional  
misconduct

(3) A member may be found guilty of professional misconduct by the Committee if,

- (a) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;
- (b) he is in contravention of section 99; or
- (c) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

## Incompetence

(4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice.

Powers of  
Discipline  
Committee

(5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order,

- (a) revoke the licence of the member;
- (b) suspend the licence of the member for a stated period;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) impose such fine as the Committee considers appropriate to a maximum of \$5,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

## Costs

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes.



(7) Where the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Stay on appeal for incompetence

(8) Where the Discipline Committee revokes, suspends or restricts the licence of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned. Stay on appeal for professional misconduct

(9) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member. Service of decision of Discipline Committee

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. Continuation on expiry of Committee membership

**108.—(1)** In this section,

Interpretation

(a) "board of inquiry" means a board of inquiry appointed by the Executive Committee under subsection 2;

(b) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise or that his practice be restricted.

(2) Where the Registrar receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter. Reference to board of inquiry

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit Examination

to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his licence be suspended until he complies.

Hearing by  
Registration  
Committee

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and may suspend the member's licence until the determination of the question of his capacity becomes final.

Parties

(5) The College, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to the hearing.

Medical  
evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

- (a) where the evidence is required by the College, at least five days before the hearing commences; and
- (b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

Powers of  
Registration  
Committee

(7) The Registration Committee shall, after the hearing,

- (a) make a finding as to whether or not the member is an incapacitated member; and
- (b) where the member is found to be an incapacitated member, by order,
  - (i) revoke his licence,

(ii) suspend his licence for such period as the Committee considers appropriate, or

(iii) attach such terms and conditions to the licence as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to Procedures proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the order.

**109.**—(1) A person whose licence has been revoked or Restoration of licence suspended for cause under this Part, or registration has been suspended or cancelled for cause under a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or cancellation or, where the suspension is for more than one year, one year after the suspension.

(2) The Registrar shall refer the application to the Discipline Reference to Discipline Committee Committee, or where the revocation or suspension was on the grounds of incapacity to the Registration Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member.

(3) The provisions of Part I and this Part applying to Procedures proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 9 of section 11 apply, *mutatis mutandis*, to proceedings of the Registration Committee and Discipline Committee under this section.

**110.**—(1) Where the Registrar believes on reasonable and Investigation of members probable grounds that a member has committed an act of professional misconduct or incompetence, the Registrar may by order appoint one or more persons to make an investigation to ascertain whether such an act has occurred, and the person appointed shall report the result of his investigation to the Registrar.

(2) For purposes relevant to the subject-matter of an Powers of investigator investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation



1971, c. 49

is being made and may, upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation, and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

Obstruction  
of  
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search  
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of  
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Admissibility  
of copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.



(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or to such other committee as he considers appropriate. Report of Registrar

**111.**—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 110 and any member of the Council or a Committee shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 110 and shall not communicate any such matters to any other person except. Matters confidential

(a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations;

(b) as may be required for the enforcement of *The Health Insurance Act, 1972*; 1972, c. 91

(c) to his counsel; or

(d) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws. Testimony in civil suit

**112.**—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit. Restraining orders

(2) An appeal lies to the Supreme Court from an order made under subsection 1. Appeal

**113.**—(1) Nothing in this Part applies to the practice of ophthalmic dispensing by an ophthalmic dispenser registered under *The Ophthalmic Dispensers Act*. Exemption under R.S.O. 1970, c. 334

Retail  
merchants

(2) Nothing in this Part prevents,

- (a) the sale of protective glasses for industrial purposes, coloured glasses not embodying any ophthalmic lens, goggles or simple magnifying glasses not sold or divided for the relief or correction of any visual or muscular error or defect of the eye; or
- (b) the sale or offering for sale by a retail merchant at his place of business of spectacles or eyeglasses,

but the Lieutenant Governor in Council may make regulations governing or restricting the sale or offering for sale referred to in clause *b* and prescribing the terms and conditions thereof and designating the nature and kind of spectacles and eyeglasses that may be sold under this subsection.

Penalties

**114.**—(1) Every person who is in contravention of section 98 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Idem

(2) Every person who, not being a member, uses an occupational designation prescribed by the regulations to be used by members or a like designation is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

Idem

(3) Any person who obstructs a person appointed to make an investigation under section 110 in the course of his duties is guilty of an offence and on summary conviction is liable to a fine not exceeding \$2,000.

Act,  
repealed

**115.**—(1) *The Optometry Act*, being chapter 335 of the Revised Statutes of Ontario, 1970, is repealed.

References

(2) Any reference in any Act to an optometrist registered under *The Optometry Act* shall be deemed to be a reference to an optometrist licensed under this Part and any reference to *The Optometry Act* shall be deemed to be a reference to this Part.

## PART VI

## PHARMACY

**118.**—(1) In this Part,Interpre-  
tation

- (a) "by-laws" means the by-laws made under this Part;
- (b) "College" means the Ontario College of Pharmacists;
- (c) "Council" means the Council of the College;
- (d) "drug" means any substance or preparation containing any substance,

- (i) manufactured, sold or represented for use in,

1. the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical or mental state or the symptoms thereof, in humans, animals or fowl, or
2. restoring, correcting, or modifying functions in humans, animals or fowl,

- (ii) referred to in Schedule C, D, E, F, G or N, or

- (iii) listed in a publication named by the regulations,

- (iv) named in the regulations,

but does not include,

- (v) any substance or preparation referred to in sub-clause i, ii or iii manufactured, offered for sale or sold as, or as part of, a food, drink or cosmetic,

- (vi) any medicine registered under the *Proprietary or Patent Medicine Act* (Canada) and sold in accordance with its provisions, or

R.S.C. 1970,  
c. P-25

- (vii) a substance or preparation named in Schedule A or B;

- (e) "interchangeable pharmaceutical product" means a product containing a drug or drugs in the same



amounts of the same active ingredients in the same dosage form as that directed by a prescription;

- (f) "intern" means a person who is registered under this Part as an intern;
- (g) "licence" means a licence to act as a pharmacist issued under this Part;
- (h) "member" means a member of the College;
- (i) "Parcost C.D.I." means the Parcost Comparative Drug Index prescribed by the regulations;
- (j) "pharmacist" means a person who is licensed under this Part as a pharmacist;
- (k) "pharmacy" means a premises in or in part of which prescriptions are compounded and dispensed for the public or drugs are sold by retail;
- (l) "prescriber" means a person who is authorized to give a prescription within the scope of his practice of a health discipline or profession;
- (m) "prescription" means a direction from a prescriber directing the dispensing of any drug or mixture of drugs for a designated person or animal;
- (n) "register" means a register maintained by the Registrar under this Part;
- (o) "registered pharmacy student" means a person who is registered under this Part as a pharmacy student;
- (p) "Registrar" means the Registrar of the College;
- (q) "registration" means a registration as an intern or registered pharmacy student and "registered" has a corresponding meaning;
- (r) "regulations" mean the regulations made under this Part.



(2) A reference in this Part to Schedules A, B, C, D, E, F, <sup>Schedules</sup> G or N is a reference to such Schedule established by the regulations for the purposes of this Part.

(3) The practice of a pharmacist is a health discipline to <sup>Health discipline</sup> which this Part applies.

**117.**—(1) This Part does not apply to,

<sup>Application of Part</sup>

(a) drugs compounded, dispensed or supplied in and by a hospital or a health or custodial institution approved or licensed under any general or special Act under the authority of a prescriber for persons under health care provided by such hospital or health or custodial institution;

(b) the selling of,

(i) any substance registered under the *Pest* <sup>R.S.C. 1970, c. P-10</sup> *Control Products Act* (Canada) and sold in accordance with its provisions,

(ii) any feeding stuffs registered under the *Feeds* <sup>R.S.C. 1970, c. F-7</sup> *Act* (Canada) and sold in accordance with its provisions,

(iii) a drug by a person licensed under *The Live* <sup>1973, c. 80</sup> *Stock Medicines Act, 1973*;

(c) the practice of a veterinarian under *The Veterinarians* <sup>R.S.O. 1970, c. 480</sup> *Act*.

(2) Nothing in this Part prevents any person from selling <sup>idem</sup> or dispensing a drug to a person authorized under this Act to dispense, prescribe or administer drugs.

#### THE ONTARIO COLLEGE OF PHARMACISTS

**118.**—(1) The Ontario College of Pharmacy is continued as the Ontario College of Pharmacists, being a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part. <sup>Ontario College of Pharmacy continued</sup>

(2) The objects of the College are,

<sup>Objects</sup>

(a) to regulate the practice of pharmacists and to govern its members in accordance with this Act, the regulations and the by-laws;

- (b) to establish, maintain and develop standards of knowledge and skill among its members;
- (c) to establish, maintain and develop standards of qualification and practice for the practice of pharmacists;
- (d) to establish, maintain and develop standards of professional ethics among its members;
- (e) to establish, maintain and develop standards for the operation of pharmacies;
- (f) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the college by or under any Act,

in order that the public interest may be served and protected.

Membership  
in the  
College

**119.**—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject.

Resignation  
of  
membership

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Cancellation  
for default  
of fees

(3) The Council may cancel a licence for non-payment of any prescribed fee after the member has been given at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Council  
of the  
College

**120.**—(1) The Council of the Ontario College of Pharmacy is continued and shall be the governing body and board of directors of the Ontario College of Pharmacists and shall manage and administer its affairs.

Composition  
of Council

- (2) The Council shall be composed of,
- (a) not fewer than thirteen and not more than nineteen persons who are members and are elected by the members in the manner provided by the regulations;
  - (b) not fewer than four and not more than six persons who are not members of a Council under this Act or registered or licensed under this or any other Act governing a health practice, and who are appointed by the Lieutenant Governor in Council; and

- (c) the dean of each faculty of pharmacy in Ontario or, in his absence, a representative who is a member of the faculty and of the College appointed by the dean.

(3) The persons appointed under clause *b* of subsection 2 shall be paid out of moneys appropriated therefor by the Legislature such expenses and remuneration as is determined by the Lieutenant Governor in Council. Remuneration of lay members

(4) The appointment of every person appointed under subsection 2 expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment. Expiration of appointment

(5) Every member who is, Qualifications to vote

(a) resident in Ontario; and

(b) not in default of payment of the annual fee prescribed by the regulations,

is qualified to vote at an election of members of the Council.

(6) The Council shall elect a President and Vice-President from among its members. President, Vice-President

(7) The Council shall appoint during pleasure a Registrar and may appoint a deputy registrar who shall have the powers of the Registrar for the purposes of this Part, and may appoint such other persons as are from time to time necessary or desirable in the opinion of the Council to perform the work of the College. Registrar and staff

(8) A majority of the members of the Council constitutes a quorum. Quorum

(9) The Council shall meet at least twice a year. Meetings of Council

(10) The members of the Council of the Ontario College of Pharmacy who were elected under *The Pharmacy Act*, being chapter 348 of the Revised Statutes of Ontario, 1970 and were in office immediately before this Part comes into force shall continue in office and shall be deemed to be the members referred to in clause *a* of subsection 2 until the expiration of the term for which they were elected or until the office otherwise becomes vacant. Continuation of Council members under R.S.O. 1970, c. 348



Powers of  
Minister

**121.** In addition to his powers and duties under Part 1, the Minister may,

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

## Regulations

**122.**—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

- (a) fixing the number of members to be elected to the Council and establishing the regional and other representation for elections;
- (b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected to the Council, and controverted elections;
- (c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
- (d) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences and registrations;
- (e) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (f) prescribing the qualifications for and conditions of registration of students and interns and governing in-service training for students and interns;
- (g) providing for the maintenance and inspection of registers;
- (h) governing standards of practice for the profession;
- (i) respecting the advertising of professional services;
- (j) prescribing the books and records to be kept, returns to be made and information to be furnished with respect to pharmacies and the practice of pharmacists and providing for the examination and audit of such books and records, as the regulations prescribe;



- (k) regulating advertising by members;
- (l) providing for the designation of honorary members of the College and prescribing their rights and privileges;
- (m) prohibiting practice by pharmacists where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (n) defining professional misconduct for the purposes of this Part;
- (o) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
- (q) respecting the reporting and publication of decisions in disciplinary matters;
- (r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (s) respecting the duties and authority of the Registrar;
- (t) requiring the payment of annual fees by members, students and interns and fees for licensing, registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (u) prescribing forms and providing for their use;
- (v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

(2) The number of members to be elected to the Council and the electoral divisions and other representation fixed and established under clause *a* of subsection 1 shall not be altered or amended more than once in any five year period.

Amendment  
of electoral  
divisions

## By-laws

**123.**—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing,

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) respecting the calling, holding and conducting of meetings of the membership of the College;
- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) providing for the appointment of inspectors for the purposes of this Part;
- (m) prescribing forms and providing for their use;

- (n) providing procedures for the making, amending and revoking of the by-laws;
- (o) respecting management of the property of the College;
- (p) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
- (s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge or pharmacy education, or maintain or improve the standards of practice in pharmacy or to support and encourage public information and interest in the past and present role of pharmacy in society;
- (t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

(2) A copy of the by-laws made under subsection 1 and amendments thereto, <sup>Distribution of by-laws</sup>

- (a) shall be forwarded to the Minister;
- (b) shall be forwarded to each member; and
- (c) shall be available for public inspection in the office of the College.

**124.**—(1) Except as provided in this Part, no person shall <sup>Licence to act as</sup> act or hold himself out as acting as a pharmacist unless he <sup>pharmacist</sup> is licensed under this Part.



Use of  
titles

(2) Any person who, in making or purporting to make a retail sale of a drug or substance in Schedule A or B, uses or associates therewith the title or designation of,

- (a) pharmacist;
- (b) pharmaceutical chemist;
- (c) chemist;
- (d) druggist;
- (e) apothecary,

whether or not in combination with each other or with any other term shall be deemed to be holding himself out as acting as a pharmacist for the purposes of subsection 1.

Conflict  
with other  
health  
discipline

(3) A licence shall be deemed to authorize a member to act as a pharmacist under this Part, notwithstanding that such action is included in the practice of any other health discipline.

Establish-  
ment of  
committees

**125.**—(1) The Council shall establish and appoint as hereinafter provided the following committees,

- (a) Executive Committee;
- (b) Accreditation Committee;
- (c) Registration Committee;
- (d) Complaints Committee;
- (e) Discipline Committee,

and may establish such other committees as the Council from time to time considers necessary.

## Vacancies

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

Completing  
quorum

(3) Where the persons attending a meeting of any Committee duly called fail to constitute a quorum, the President may appoint such members of the Council as are required to complete the quorum to attend the meeting and act as a member of the Committee for the purposes of the meeting.



**126.**—(1) The Executive Committee shall be composed of, <sup>Executive Committee</sup>

- (a) the President, who shall be Chairman of the Committee,
- (b) the Vice-President; and
- (c) three members of the Council appointed by the Council, one of whom shall be the immediate past president, if he is a member of Council, and one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) A majority of the members of the Executive Committee <sup>Quorum</sup> constitutes a quorum.

(3) The Executive Committee shall perform such functions <sup>Duties</sup> of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

**127.**—(1) The Registration Committee shall be composed <sup>Registration Committee</sup> of,

- (a) one member of the Council who is the dean of a faculty of pharmacy, or his representative on the Council;
- (b) two members of the Council who were elected to the Council; and
- (c) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

(2) The Council shall name one member of the Registration <sup>Chairman</sup> Committee to be Chairman.

(3) A majority of the members of the Registration Com- <sup>Quorum</sup> mittee constitutes a quorum.

**128.**—(1) The Registrar shall issue a licence or registration <sup>Licences and registra-</sup> to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence or registration that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

Powers and  
duties of  
Registration  
Committee

(2) The Registration Committee,

- (a) shall determine the eligibility of applicants for licences and registrations and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and
- (b) may exempt an applicant from any admission requirement.

Conditions  
of licences

(3) The Registration committee may direct the Registrar to issue or refuse to issue licences or make or refuse to make registrations or to issue licences and make registrations subject to such terms, conditions and limitations as the Committee specifies.

Review of  
qualifications

(4) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

Registers of  
licences

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed or registered under this Part, identifying the terms, conditions and limitations attached to the licence or registration, and shall note on the register every revocation, suspension and cancellation or termination of a licence or registration and such other information as the Registration Committee or Discipline Committee directs.

Continuation  
of licences  
R.S.O. 1970,  
c. 348

(6) Every licence and registration issued or made under *The Pharmacy Act*, being chapter 348 of the Revised Statutes of Ontario, 1970, and in effect immediately before this Part comes into force continues in the same manner as if issued or made under this Part.

Accredita-  
tion  
Committee

**129.**—(1) The Accreditation Committee shall be composed of,

- (a) three members of the Council who were elected to the Council; and
- (b) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council,

and shall exercise the powers and carry out the duties assigned to it under sections 138 and 139.

(2) No person who is a member of the Discipline Committee <sup>Idem.</sup> shall be a member of the Accreditation Committee.

(3) The Council shall name one member of the Accreditation <sup>Chairman</sup> Committee to be Chairman.

(4) A majority of the members of the Accreditation Com- <sup>Quorum</sup> mittee constitutes a quorum.

**130.**—(1) The Complaints Committee shall be composed <sup>Complaints Committee</sup> of,

(a) three members of the Council who were elected to the Council; and

(b) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

(2) No person who is a member of the Discipline Committee <sup>Idem</sup> shall be a member of the Complaints Committee.

(3) The Council shall name one member of the Complaints <sup>Chairman</sup> Committee to be its Chairman.

(4) A majority of the members of the Complaints Com- <sup>Quorum</sup> mittee constitutes a quorum.

**131.**—(1) The Complaints Committee shall consider and <sup>Duties</sup> investigate complaints made by members of the public regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless,

(a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

(2) The Committee in accordance with the information it <sup>Idem</sup> receives may,

(a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 134; or



(b) direct that the matter not be referred under clause *a*; or

(c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.

Decision  
and  
reasons

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8 and, where the decision is made under clause *b* of subsection 2, its reasons therefor.

Discipline  
Committee

**132.**—(1) The Discipline Committee shall be composed of,

(a) four members of the Council who were elected to the Council; and

(b) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

Quorum  
and votes

(2) Three or more members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum, and all disciplinary decisions require the vote of a majority of the members of the Discipline Committee present at the meeting.

Disability  
of lay  
member

(3) Where the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

Chairman

(4) The Council shall name one member of the Discipline Committee to be its Chairman.

Reference  
by Council  
or Executive  
Committee

(5) Notwithstanding section 131, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member.

Duties of  
Discipline  
Committee

**133.**—(1) The Discipline Committee shall,

(a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;

(b) hear and determine matters referred to it under section 131, 132, 135 or 139; and

(c) perform such other duties as are assigned to it by the Council.

Idem

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall,



- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

(3) A member may be found guilty of professional misconduct by the Committee if, Professional misconduct

- (a) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;
- (b) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

(4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his professional responsibilities a lack of knowledge, skill or judgment or disregard for the welfare of the public he serves of a nature or to an extent that demonstrates he is unfit to carry out the responsibilities of a pharmacist. Incompetence

(5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order, Powers of Discipline Committee

- (a) revoke the licence of the member;
- (b) suspend the licence of the member for a stated period not exceeding twelve months;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) impose such fine as the Committee considers appropriate to a maximum of \$5,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;

(f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

Costs

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes.

Stay on  
appeal for  
incom-  
petence

(7) Where the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Stay on  
appeal for  
professional  
misconduct

(8) Where the Discipline Committee revokes, suspends or restricts the licence of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned.

Service of  
decision of  
Discipline  
Committee

(9) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member.

Continuation  
on expiry of  
Committee  
membership

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

Interpre-  
tation

**134.—**(1) In this section,

(a) “board of inquiry” means a board of inquiry appointed by the Executive Committee under subsection 2;

(b) “incapacitated member” means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he no longer be permitted to practise as a pharmacist or that his practice be restricted.

Reference  
to board  
of inquiry

(2) Where the Registrar receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and

report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

(3) The board of inquiry shall make such inquiries as it <sup>Examination</sup> considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the Executive Committee on the recommendation of the Board may order that his licence be suspended until he complies.

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and the Executive Committee may, on the recommendation of the Registration Committee, suspend the member's licence until the determination of the question of his capacity becomes final. <sup>Hearing by Registration Committee</sup>

(5) The College, the person whose capacity is being investi- <sup>Parties</sup> gated and any other person specified by the Committee are parties to the hearing.

(6) A legally qualified medical practitioner is not com- <sup>Medical evidence</sup> pellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

- (a) where the evidence is required by the College, at least five days before the hearing commences; and
- (b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.



Powers of  
Registration  
Committee

- (7) The Registration Committee shall, after the hearing,
- (a) make a finding as to whether or not the member is an incapacitated member; and
  - (b) where the member is found to be an incapacitated member, by order,
    - (i) revoke his licence,
    - (ii) suspend his licence for such period as the Committee considers appropriate, or
    - (iii) attach such terms and conditions to the licence as the Committee considers appropriate.

Notice  
of orders

(8) The Registrar may give notice of an order made under this section to such persons as he considers appropriate in the public interest.

## Procedures

(9) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, *mutatis mutandis*, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Restoration  
of licence

**135.**—(1) A person whose licence has been revoked for cause under this Part, or registration has been suspended or cancelled for cause under a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or cancellation or, where the suspension is for more than one year, one year after the suspension.

Reference  
to  
Discipline  
Committee

(2) The Registrar shall refer the application to the Discipline Committee, or where the revocation or suspension was on the grounds of incapacity, to the Registration Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member.

## Procedures

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 9 of section 11 apply, *mutatis mutandis*, to proceedings



of the Registration Committee and Discipline Committee under this section.

(4) Notwithstanding subsections 1, 2 and 3, the Council or the Executive Committee may direct at any time that a licence be issued to a person whose licence has previously been revoked for cause or a suspension for cause be removed, subject to such terms, conditions or limitations as the Council or Executive Committee, as the case may be, considers appropriate.

Direction  
by Council  
to issue  
licence

**136.**—(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence the Registrar may by order appoint one or more persons to make an investigation to ascertain whether such act has occurred, and the person appointed shall report the result of his investigation to the Registrar.

Investigation  
of  
members

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may upon production of his appointment enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

Powers of  
investigator

1971, c. 49

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Obstruction  
of  
investigator

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with

Search  
warrant

such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of  
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Admissi-  
bility of  
copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.

Report of  
Registrar

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or such other Committee as he considers appropriate.

Matters  
confidential

**137.**—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 136, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation and shall not communicate any such matters to any other person except,

(a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations; or

1972, c. 91

(b) as may be required for the enforcement of *The Health Insurance Act, 1972*;

(c) to his counsel; or

(d) with the consent of the person to whom the information relates.



(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws.

Testimony  
in civil  
suit

## PHARMACIES

**138.**—(1) No person shall establish or operate a pharmacy unless a certificate of accreditation has been issued in respect thereof.

Certifica-  
tion of  
accredita-  
tion

(2) The Registrar shall issue a certificate of accreditation and renewals thereof to any applicant therefor where the applicant and the pharmacy and its proposed operation qualify under this Part and the regulations and shall refer to the Accreditation Committee every application for a certificate or renewal that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

Issuance

(3) The Accreditation Committee shall determine the eligibility of the applicant and the pharmacy or proposed pharmacy and its operation and may direct the Registrar to issue or refuse to issue the accreditation certificate or to issue the accreditation certificate subject to such terms, conditions or limitations as the Committee directs.

Accredita-  
tion  
Committee

(4) The provisions of Part I applying to hearings, review and appeals in respect of proceedings of the Registration Committee apply, *mutatis mutandis*, in respect of proceedings of the Accreditation Committee.

Procedures

(5) Every certificate of accreditation issued under *The Pharmacy Act*, being chapter 348 of the Revised Statutes of Ontario, 1970, and in effect immediately before this Part comes into force continues in the same manner as if issued under this Part.

Continuation  
of  
certificates  
R.S.O. 1970,  
c. 348

**139.**—(1) Where the Accreditation Committee has reason to believe that a pharmacy or its operation fails to conform to the requirements of this Part and the regulations or to any term, condition or limitation to which its certificate of accreditation is subject, the Committee may refer the matter to the Discipline Committee for a hearing and determination.

Revocation  
of certificate  
of accredita-  
tion

(2) Where the Accreditation Committee refers a matter to the Discipline Committee and the Discipline Committee finds

Powers of  
Discipline  
Committee

that a pharmacy or its operation fails to conform to the requirements of this Part and the regulations or to any term, condition or limitation to which its certificate of accreditation is subject, the Discipline Committee may,

- (a) suspend the certificate of accreditation for a stated period; or
- (b) revoke the certificate of accreditation.

**Procedures**

(3) The provisions of Part I and this Part applying to proceedings before the Discipline Committee in respect of professional misconduct and appeals therefrom apply to the proceedings before the Discipline Committee under this section.

**Cancellation for non-payment of fee**

(4) The Council may cancel a certificate of accreditation for non-payment of the prescribed fee after the person operating the pharmacy has been given at least two months notice of default and intention to cancel.

**Closing of pharmacy**

**140.** Every person who permanently closes a pharmacy shall immediately remove all signs and symbols relating to the practice of pharmacy either within or outside the premises, shall remove and dispose of all drugs according to law and shall submit in writing to the Registrar such information and within such time as the regulations prescribe.

**Operation of pharmacies by corporation**

**141.**—(1) No corporation shall own or operate a pharmacy unless the majority of the directors of the corporation are pharmacists.

**Idem**

(2) No corporation shall own or operate a pharmacy unless a majority of each class of shares of the corporation is owned by and registered in the name of pharmacists.

**Application of subs. 2**

(3) For the purposes of subsection 2, shares registered in the name of the personal representative of a deceased pharmacist shall, for a period not exceeding four years, be considered to be registered in the name of a pharmacist.

**Idem**

(4) Subsection 2 does not apply to any corporation operating a pharmacy on the 14th day of May, 1954.

**Application of section**

(5) This section does not apply to the operation of a pharmacy by a non-profit corporation having as its objects and providing health services by members of more than one health discipline.

**Where licence revoked**

**142.** No person whose licence as a pharmacist has been revoked for cause or while his licence is suspended for cause,

- (a) shall be employed or work in a pharmacy; or
- (b) shall act as a director or vote as a shareholder in a corporation operating a pharmacy.



**143.**—(1) No person other than a pharmacist or a corporation complying with the requirements of section 141 shall own or operate a pharmacy. Ownership of pharmacies

(2) For the purposes of the ownership of a pharmacy, or Idem for the purposes of the composition of the board of directors or ownership of shares of a corporation as required by section 141, the right to operate the pharmacy shall not be affected by,

- (a) any suspension of the licence of a pharmacist; or
- (b) the revocation of the licence of a pharmacist until after a period of six months has elapsed.

**144.**—(1) Where a person owning and operating a pharmacy becomes bankrupt, insolvent or makes an assignment for the benefit of creditors, he shall so notify the Registrar and the trustee in bankruptcy, liquidator or assignee, as the case may be, may own and operate the pharmacy for the purposes of the bankruptcy, insolvency or assignment. Carrying on business of bankrupt person

(2) Upon the death of a pharmacist who was owning and operating a pharmacy at the time of his death, the personal representative of such deceased person may own and operate the pharmacy for a period of four years or for such further period as the Council may authorize. Carrying on business of deceased person

(3) Every person authorized to own and operate a pharmacy under subsection 1 or 2 shall immediately upon becoming so authorized file with the Registrar evidence of his authority. Notification to Registrar

**145.**—(1) No person shall operate a pharmacy unless, Supervision of pharmacist

- (a) it is under the supervision of a pharmacist who is physically present; and
- (b) it is managed by a pharmacist so designated by the owner of the pharmacy.

(2) Where the drugs in a pharmacy are restricted to a part of the pharmacy that is not accessible to the public in accordance with the regulations, and while such part is not in operation, clause a of subsection 1 does not apply to the remaining premises of the pharmacy. Exception

(3) Every pharmacist practising in a pharmacy shall publicly display his licence in the pharmacy except during such period, if any, as the licence is under suspension. Displaying licence

**146.** No person shall in connection with a retail business use the designation, Designations

- (a) drug store;

- (b) pharmacy;
- (c) drug department;
- (d) drug sundries;
- (e) drug or drugs;
- (f) drug mart; or
- (g) medicines,

unless the business is an accredited pharmacy.

Inspection  
of premises

**147.**—(1) An inspector appointed under a by-law may enter any pharmacy or other shop in the performance of his duties under this Part at all reasonable times.

Inspection  
of records

(2) Any record required to be kept under this Part shall be open to inspection by any inspector appointed under a by-law.

#### DRUGS

Dispensing  
of drugs

**148.**—(1) Subject to section 153, no person other than a pharmacist or an intern or a registered pharmacy student acting under the supervision of a pharmacist who is physically present shall compound, dispense or sell any drug in a pharmacy.

Exception  
for certain  
drugs

(2) Where a pharmacist or an intern is present in the pharmacy and is available to the purchaser for consultation, subsection 1 does not apply to the sale in a pharmacy of a drug other than,

- (a) a drug requiring a prescription for sale;
- (b) a drug referred to in Part I of Schedule D; or
- (c) a drug referred to in Schedule C.

Misrepresenta-  
tion

**149.** No person shall knowingly sell any drug under the representation or pretence that it is a particular drug that it is not, or contains any substance that it does not.

Labelling  
of Sched. D  
drugs

**150.**—(1) No person shall sell a drug listed in Schedule D unless it is labelled in accordance with the regulations.

Record  
of poisons

(2) No person shall sell by retail a drug listed in Part I of Schedule D unless a record of the sale is made in such manner as the regulations prescribe.

(3) Subsections 1 and 2. do not apply to a drug when it is dispensed pursuant to a prescription or forms part of the ingredients of a prescription. Exception

**151.** Drugs referred to in Schedules D, E, F, G and N shall be sent through the mail only by registered mail. Mailing of drugs

**152.** The manager of every pharmacy shall keep or cause to be kept a record of every purchase and sale of a drug referred to in Schedule G or N in such form or manner as the regulations may prescribe. Records of pharmacy

**153.**—(1) No person shall sell by retail a substance listed in Schedule B unless it is labelled in accordance with the regulations. Sale of Sched. B drugs

(2) No person other than a pharmacist shall sell by retail a substance listed in Schedule B for the prevention or treatment of an ailment, disease or physical disorder, unless it is sold in the container in which it was received by the seller. Idem

**154.**—(1) Subject to the regulations, no person shall sell by retail any drug referred to in Schedule E, F, G or N, except on prescription given in such form, in such manner and under such conditions as the regulations prescribe. Prescription drugs

(2) Subsection 1 does not apply to drugs referred to in Part II of Schedule F that are sold in a container labelled by the manufacturer as for veterinary or agricultural use or sold in a form unsuitable for human use. Exception

**155.**—(1) Every person who dispenses a drug pursuant to a prescription shall ensure that the following information is recorded on the prescription, Information noted on prescription

(a) the name and address of the person for whom the drug is prescribed;

(b) the name, strength (where applicable) and quantity of the prescribed drug;

(c) the directions for use, as prescribed;

(d) the name and address of the prescriber;

(e) the identity of the manufacturer of the drug dispensed;

(f) an identification number or other designation;



- (g) the signature of the person dispensing the drug and, where different, also the signature of the person receiving a verbal prescription;
- (h) the date on which the drug is dispensed;
- (i) the price charged.

**Retention of records**

(2) The records required under subsection 1 shall be retained for not less than six years.

**Identification markings**

(3) The container in which the drug is dispensed shall be marked with,

- (a) the identification number that is on the prescription;
- (b) the name, address and telephone number of the pharmacy in which the prescription is dispensed;
- (c) the identification of the drug as to its name, its strength and its manufacturer, unless directed otherwise by the prescriber;
- (d) the quantity where the drug dispensed is in solid oral dosage form;
- (e) the name of the owner of the pharmacy;
- (f) the date the prescription is dispensed;
- (g) the name of the prescriber;
- (h) the name of the person for whom it is prescribed;
- (i) the directions for use as prescribed.

**Copy of prescription**

**156.**—(1) Every person in respect of whom a prescription is presented to a pharmacist to be dispensed, unless otherwise directed by the prescriber, is entitled to have a copy of it marked as such, furnished to him, his agent, or a pharmacist acting on behalf of such person or agent.

**Disposal of prescriptions**

(2) Prescriptions in a pharmacy that ceases to operate as a pharmacy shall be delivered to the persons, or agents of the persons, who presented the prescription or to another pharmacy that is reasonably readily available to such person or his agent, or failing either, to the College.

**Prescription by doctor out of Ontario**

**157.** A pharmacist may dispense a drug pursuant to a written order signed by a physician or dentist licensed to



practise in a province in Canada other than Ontario, if in the professional judgment of the pharmacist the patient requires the drug immediately, but such order shall not be refilled.

**158.**—(1) Every person who dispenses a prescription may, unless otherwise directed by the prescriber, select and dispense an interchangeable pharmaceutical product other than the one prescribed, if the interchangeable pharmaceutical product dispensed is listed as interchangeable in the Parcost C.D.I., and is lower in cost than the drug prescribed. Substitution of interchangeable product

(2) Where a drug prescribed is listed in the Parcost C.D.I. and the identity of the manufacturer is not specified by the prescriber every person who dispenses a prescription shall select and dispense an interchangeable pharmaceutical product listed in the Parcost C.D.I. Generic description

(3) No person shall knowingly supply an interchangeable product under subsection 1 or 2 at a price in excess of the cost of the lowest priced interchangeable pharmaceutical product in his inventory and the maximum dispensing fee as set out in the Parcost C.D.I. Cost

(4) No action or other proceeding lies or shall be instituted against a prescriber or pharmacist on the grounds that an interchangeable pharmaceutical product other than the one prescribed was dispensed in accordance with this section. No liability for substitution

**159.**—(1) Every person who operates or manages a pharmacy shall provide the Minister with such information from records required to be kept under section 155 as the Minister requests. Reports by pharmacists

(2) The Registrar shall provide the Minister with such information respecting substances referred to in the Schedules, except Schedule A, as the Registrar possesses and the Minister requests. Reports by Registrar

**160.**—(1) No person shall sell by wholesale any drug for the purpose of sale by retail to any person who is not entitled to sell the drug by retail. Sale of drugs by wholesale

(2) Every person supplying drugs by wholesale in Ontario shall register with the College as a drug wholesaler and furnish the Registrar with a signed statement showing, Registration by wholesalers

- (a) his full name and address, or if a corporation the name of the corporation, the names and addresses of the president and directors thereof;

(b) the principal business address,

and with respect to his places of business where drugs are handled,

(c) the address of each place of business, agent or representative in Ontario;

(d) the name of the manager or person responsible for each place of business in Ontario;

(e) the date on which he proposes to commence business at each new location in Ontario.

Furnishing  
of informa-  
tion

(3) The information required by subsection 2 shall be furnished within thirty days after this Part comes into force and thereafter at least seven days before commencing business and any change in the information required by subsection 2 shall be furnished to the Registrar within seven days of the change.

Regulations

**161.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Council may make regulations,

(a) prescribing the substances that are included in Schedules A, B, C, D, E, F, G and N for the purpose of this Part;

(b) naming substances for the purposes of clause *d* of subsection 1 of section 116 and specifying the provisions of this Act that shall apply in respect of such substances;

(c) naming publications for the purposes of clause *d* of subsection 1 of section 116;

(d) prescribing the percentage of any substance to be contained in any preparation referred to in any Schedule;

(e) prescribing the manner in which prescriptions shall be given in respect of the drugs referred to in Schedules E, F, G and N and the conditions under which such prescriptions may be given;

(f) authorizing the refilling of prescriptions without further prescription and prescribing the conditions under which prescriptions may be refilled without further prescription;

- (g) prescribing the manner in which records shall be kept of the purchase and sale of the drugs referred to in Schedules D, G and N;
- (h) pertaining to the transfer of prescriptions and the records to be kept by the transferor and the transferee;
- (i) designating substances listed in Schedule D that may be sold by persons not otherwise authorized under this Part and authorizing the sale of such substances by any persons or classes of persons not otherwise authorized under this Part and prescribing the conditions under which such substances shall be sold by such persons or classes of persons;
- (j) prescribing the labelling of substances listed in Schedule B for the purposes of section 153;
- (k) providing for the establishment and maintenance of patient record systems;
- (l) prescribing the types of containers to be used for containing any drug and the designs, specifications and labelling of containers used for containing any drug;
- (m) prescribing standards for accreditation of pharmacies including maintenance, operation, space, equipment and facilities required therefor;
- (n) providing for applications for certificates of accreditation of pharmacies, and the issuance of such certificates and their expiration and renewal and requiring the payment of fees therefor and prescribing the amounts thereof;
- (o) providing for the filing with the Registrar of information respecting the location of the place of practice and the residential address of pharmacists, the name and address of pharmacies in the Province of Ontario including the name and address of the owner and the manager of such pharmacies, and any changes thereof, and the form of such information and the time of filing;
- (p) providing for the information, instruments or documents to be filed with the Registrar by persons opening, acquiring, relocating or closing a pharmacy, the form thereof and the time of filing;
- (q) prescribing standards for the subdivision of premises so that drugs are restricted to a specified area and



so that the part of the premises to which the drugs are restricted may be rendered not accessible to the public, while the other part remains open;

- (r) regulating the handling, location and storage of drugs in a pharmacy.

Idem

(2) The Lieutenant Governor in Council may make regulations,

- (a) regulating the use of containers in which drugs may be dispensed and designating organizations to test, certify and designate containers that meet standards approved by the Minister for such purposes as may be specified in the regulations, and requiring the use of containers that are so certified and designated except under such circumstances as are prescribed;
- (b) prescribing the Parcost C.D.I. for the purpose of this Part.

#### ENFORCEMENT

Restraining orders

**162.**—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

Recovery of charges

**163.** A person who sells any drug in contravention of this Part or the regulations is not entitled to recover any charges in respect thereof.

Surrender of cancelled licence or accreditation certificate

**164.** Where a licence or certificate of accreditation is revoked or cancelled, the former holder thereof shall forthwith deliver the licence or certificate to the Registrar.

Penalties

**165.**—(1) Every person who is in contravention of section 124 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.



(2) Every person who not being a member uses an occupational designation prescribed by the regulations to be used by members or a like designation is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000. Idem

(3) Every person who contravenes any provision of this Act or the regulations for which no penalty is otherwise provided is guilty of an offence and on summary conviction is liable to a fine not exceeding \$2,000. Idem

**166.**—(1) Every owner or manager of a pharmacy is liable for every offence against this Part committed by any person in his employ or under his supervision with his permission, consent or approval, express or implied, and every director of a corporation operating a pharmacy is liable for every offence against this Part committed by any person in the employ of the corporation with his permission, consent or approval, express or implied. Responsibility of owner and manager

(2) Where any person operates a pharmacy contrary to this Part or the regulations, the owner and manager of such pharmacy, or either of them, or any director of a corporation operating a pharmacy, may be proceeded against, and prosecution or conviction of either of them is not a bar to prosecution or conviction of the other. Idem

**167.** In any prosecution under this Part,

Evidence

- (a) a certificate as to the analysis of any drug or poison purporting to be signed by a Food and Drug Analyst or Provincial Analyst is admissible in evidence as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the analyst;
- (b) any article labelled as containing any drug is admissible in evidence as *prima facie* proof that the article contains the drug described on the label;
- (c) the label of the container of a drug dispensed pursuant to a prescription is admissible in evidence as *prima facie* proof that the drug named in the prescription was dispensed;
- (d) evidence that a drug is found in a shop or place in which business is transacted is admissible as *prima facie* proof that it was kept for sale;

- (e) evidence of the publishing of a sign, title or advertisement containing the name of an establishment or the owner thereof is admissible in evidence as *prima facie* proof that the sign, title or advertisement was published by the owner of the establishment.

**Repeals**

**168.**—(1) The following Acts are repealed:

1. *The Pharmacy Act*, being chapter 348 of the Revised Statutes of Ontario, 1970.
2. *The Pharmacy Amendment Act, 1972*, being chapter 99.
3. *The Pharmacy Amendment Act, 1973*, being chapter 126.

**References**

(2) Any reference in any Act or regulation to a pharmaceutical chemist registered under *The Pharmacy Act* shall be deemed to be a reference to a pharmacist licensed under this Part and any reference to *The Pharmacy Act* shall be deemed to be a reference to this Part.

**MISCELLANEOUS****Commence-  
ment**

**169.**—(1) This Act, except sections 1 to 5 and sections 7 to 168, comes into force on the day it receives Royal Assent.

**Idem**

(2) Sections 1 to 5 and sections 7 to 168, come into force on a day to be named by proclamation of the Lieutenant Governor.

**Short title**

**170.** This Act may be cited as *The Health Disciplines Act, 1974*.



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*1st Reading*

April 2nd, 1974

*2nd Reading*

April 30th, 1974

*3rd Reading*

June 28th, 1974

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THE HON. F. S. MILLER  
Minister of Health

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act to amend  
The Regional Municipality of Haldimand - Norfolk Act,  
1973**

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**THE HON. J. WHITE**  
Treasurer of Ontario and Minister of Economics  
and Intergovernmental Affairs

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#### EXPLANATORY NOTES

SECTION 1. The subsection being repealed provided for the delegation by the Lieutenant Governor of the Minister's powers of approval under *The Planning Act* to the Regional Council. This matter is now dealt with in greater detail in sections 44b, 44c and 44d of *The Planning Act*.

\* SECTION 2. All existing land division committees and committees of adjustment in the Regional Area are dissolved on the 31st day of March, 1974, and the Regional Council is required to constitute a new land division committee and a new committee of adjustment on or before the 1st day of April, 1974. The subsection added will permit the appropriate new committee to take up and complete any applications that were pending before a committee on the date of its dissolution.

SECTION 3. Self-explanatory.

BILL 23

1974

**An Act to amend  
The Regional Municipality of  
Haldimand-Norfolk Act, 1973**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 5 of section 55 of *The Regional Municipality of Haldimand-Norfolk Act, 1973*, being chapter 96, as enacted by the Statutes of Ontario, 1973, chapter 155, section 4, is repealed. s. 55 (5),  
repealed
2. Section 58 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 155, section 4, is amended by adding thereto the following subsection: s. 58,  
amended
  - (4) Where any application pending before a land division committee or a committee of adjustment that is dissolved under subsection 1 has not been finally disposed of on or before the 31st day of March, 1974, Disposition  
of pending  
applications
    - (a) in the case of an application for a consent, the land division committee appointed under subsection 1, stands in the place and stead of the committee that is dissolved; and
    - (b) in the case of an application in respect of any matter other than a consent, the committee of adjustment, appointed under subsection 1, stands in the place and stead of the committee that is dissolved,

for the purpose of completing the disposition of such application.

3. Section 139 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 155, section 4, is amended by adding thereto the following subsection: s. 139,  
amended

Jarvis Village  
council to be  
deemed  
Hydro-  
Electric Com-  
mission  
R.S.O. 1970,  
c. 390

(6) The members of the council of the Village of Jarvis, as it exists on the 31st day of March, 1974, shall, until such date as the Minister may by order designate, be deemed to be a commission established under Part III of *The Public Utilities Act* for the Village of Jarvis Hydro-Electric System to be known as The Hydro-Electric Commission of the Village of Jarvis, which shall be deemed to be a local board of the area municipality of the City of Nanticoke, and all rights and obligations of the Village of Jarvis in relation to the Village of Jarvis Hydro-Electric System become rights and obligations of The Hydro-Electric Commission of the Village of Jarvis.

Commence-  
ment

4. This Act shall be deemed to have come into force on the 1st day of April, 1974.

Short title

5. This Act may be cited as *The Regional Municipality of Haldimand-Norfolk Amendment Act, 1974*.









*1st Reading*

April 4th, 1974

*2nd Reading*

*3rd Reading*

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THE HON. J. WHITE  
Treasurer of Ontario and  
Minister of Economics and  
Intergovernmental Affairs

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*(Government Bill)*

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# **BILL 23**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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## **An Act to amend The Regional Municipality of Haldimand - Norfolk Act, 1973**

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THE HON. J. WHITE  
Treasurer of Ontario and Minister of Economics  
and Intergovernmental Affairs

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ILL 23

1974

**An Act to amend  
The Regional Municipality of  
Haldimand-Norfolk Act, 1973**

**H**ER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of the Province of Ontario, enacts as  
follows:

1. Subsection 5 of section 55 of *The Regional Municipality of Haldimand-Norfolk Act, 1973*, being chapter 96, as enacted by the Statutes of Ontario, 1973, chapter 155, section 4, is repealed. s. 55 (5),  
repealed

2. Section 58 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 155, section 4, is amended by adding thereto the following subsection: s. 58.  
amended

(4) Where any application pending before a land division committee or a committee of adjustment that is dissolved under subsection 1 has not been finally disposed of on or before the 31st day of March, 1974, Disposition  
of pending  
applications

(a) in the case of an application for a consent, the land division committee appointed under subsection 1, stands in the place and stead of the committee that is dissolved; and

(b) in the case of an application in respect of any matter other than a consent, the committee of adjustment, appointed under subsection 1, stands in the place and stead of the committee that is dissolved,

for the purpose of completing the disposition of such application.

3. Section 139 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 155, section 4, is amended by adding thereto the following subsection: s. 139.  
amended

Jarvis Village  
council to be  
deemed  
Hydro-  
Electric Com-  
mission  
R.S.O. 1970,  
c. 390

(6) The members of the council of the Village of Jarvis as it exists on the 31st day of March, 1974, shall, until such date as the Minister may by order designate, be deemed to be a commission established under Part III of *The Public Utilities Act* for the Village of Jarvis Hydro-Electric System to be known as The Hydro-Electric Commission of the Village of Jarvis, which shall be deemed to be a local board of the area municipality of the City of Nanticoke, and all rights and obligations of the Village of Jarvis in relation to the Village of Jarvis Hydro-Electric System become rights and obligations of The Hydro-Electric Commission of the Village of Jarvis.

Commence-  
ment

4. This Act shall be deemed to have come into force on the 1st day of April, 1974.

Short title

5. This Act may be cited as *The Regional Municipality of Haldimand-Norfolk Amendment Act, 1974*.









An Act to amend  
The Regional Municipality of  
Haldimand-Norfolk Act, 1973

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*1st Reading*

April 4th, 1974

*2nd Reading*

April 30th, 1974

*3rd Reading*

April 30th, 1974

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THE HON. J. WHITE  
Treasurer of Ontario and  
Minister of Economics and  
Intergovernmental Affairs

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act to amend The Judicature Act**

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**MR. ROY**

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#### EXPLANATORY NOTE

The Bill authorizes the use of the French language in writs, pleadings and proceedings in court in certain instances.

## An Act to amend The Judicature Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 127 of *The Judicature Act*, being chapter 228 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 127,  
re-enacted

### PLEADINGS TO BE IN ENGLISH OR FRENCH

127.—(1) Subject to subsection 2, writs, pleadings and proceedings in all courts shall be in the English language only, but the proper or known names of writs or other process, or technical words, may be in the same language as has been commonly used. Writs,  
pleadings  
and  
proceedings  
in English

(2) Writs, pleadings and proceedings may be in the French language in all courts where, Writs,  
pleadings  
and  
proceedings  
in French

(a) a consent in writing signed by all parties to the action is filed with the court, authorizing the use of the French language; and

(b) the court is located in a geographic area in Ontario which is designated as a bilingual region by the Government of Canada or where at least 10 per cent of the residents in the area have indicated French as their first language according to the most recent population census of the Government of Canada under the *Statistics Act* (Canada). R.S.C. 1970,  
c. 8-16

2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment

3. This Act may be cited as *The Judicature Amendment Act, 1974*. Short title

An Act to amend The Judicature Act

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*1st Reading*

April 4th, 1974

*2nd Reading*

*3rd Reading*

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MR. ROY

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*(Private Member's Bill)*



**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

**An Act to impose a Tax on speculative Profits  
resulting from the Disposition of Land**

**THE HON. A. K. MEEN  
Minister of Revenue**

#### EXPLANATORY NOTES

In accordance with the proposals contained in the Treasurer's Budget, this Bill imposes a tax on certain land in Ontario that is "designated land" within the meaning of the Bill. The rate of tax is 50 per cent of the increase in value of designated land after April 9, 1974, and is imposed only when the land is disposed of after that date. A change of control of a corporation or association of persons 50 per cent or more of whose assets consist of designated land will be treated as a disposition of the designated land occasioning tax unless entitled to exemption.

The person disposing of designated land is responsible for payment of the tax imposed on that land, and designated land does not include a mineral property that is a "Canadian resource property" under the *Income Tax Act* (Canada).

The Bill also provides that certain dispositions of designated land may be made tax free. These are: a person's principal residence or principal recreational property, transfers to the Crown, a municipality or a Crown agency, expropriations of land, land used for industrial or commercial purposes, other than apartment buildings, that includes buildings and improvements worth at least 40 per cent of the property sold, land on which the owner has erected a building or on which there is a building that the owner has renovated if the building is worth at least 40 per cent of the value of the land and building, and farming land disposed of within the family to enable the transferee to carry on farming.

Where control of a corporation owning designated land changes hands, an additional tax is imposed on the land at the rate applicable to conveyances under *The Land Transfer Tax Act, 1974*. The sale of shares in a land-owning corporation does not attract tax under that Act because no new registration of the land is required on the transfer of shares.

BILL 25

1974

## An Act to impose a Tax on speculative Profits resulting from the Disposition of Land

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1.—(1) In this Act,

Interpre-  
tation

(a) "adjusted value" means, in the case of any particular disposition of designated land to which the expression is being applied, the aggregate of,

(i) where the designated land was acquired by the transferor after the 9th day of April, 1974,

(A) otherwise than as described in sub-subclause B, C or D, the cost to the transferor of its acquisition,

(B) under the will or on the intestacy of a person dying after the 9th day of April, 1974, the fair market value of the designated land at the death of such person,

(C) by means of a disposition thereof made by a person or persons with whom the transferor was not dealing at arm's length, the fair market value of the designated land at the time it was so acquired, or if higher, the cost of its acquisition, or

(D) as the result of a disposition described in clause *h* of section 4, the adjusted value applicable to the designated land on the first disposition of it after the 9th day of April, 1974, that was a disposition described in clause *h* of section 4 and made by a transferor of whose family the subsequent transferor is a member,

(ii) where the designated land was acquired by the transferor on or before the 9th day of April, 1974, the fair market value of the designated land ascertained as at the 9th day of April, 1974,

(iii) the cost of improvements made by the transferor to the designated land after the 9th day of April, 1974,

(iv) for each twelve-month period that does not commence earlier than the 9th day of April, 1974 during which the transferor owns the designated land prior to his disposition of it, the lesser of either,

(A) 10 per cent of the amount determined under either subclause i or ii, whichever is applicable, or

(B) the aggregate of,

1. the net maintenance costs incurred by the transferor after the 9th day of April, 1974 with respect to the designated land, and

2. the costs incurred by the transferor in connection with disposing of the designated land if it was acquired by him after the 9th day of April, 1974, or where it was acquired by him on or before that date, the proportion of the costs incurred by the transferor in connection with disposing of the designated land that is in the same ratio to the whole of such costs as the fair market value of the designated land at the 9th day of April, 1974 is of the proceeds of disposition of the designated land by the transferor,

and

(v) in the case of a disposition of designated land used in farming and to which clause *h* of section 4 does not apply, an amount



equal to compound interest at the rate of 10 per cent per annum calculated with annual rests upon the amount determined under subclause i or ii, whichever is applicable to the transferor, for the number of years preceding the disposition and not including any period of time prior to the 9th day of April, 1974 throughout which farming was carried on on the designated land by the transferor making the disposition to which clause *h* of section 4 does not apply, or by any previous transferor of whose family the transferor making the disposition to which clause *h* of section 4 does not apply was a member, or by members of the family of such previous transferor, or by a farming corporation to which a disposition by such previous transferor would be a disposition described in clause *h* of section 4;

- (b) "designated land" means all land situate in Ontario and every right, estate, interest, tenement or hereditament existing at law or in equity in, over, to, or affecting land or capable of being registered in any land registry office in Ontario, fixtures, and buildings or structures attached to land, whether or not owned by persons other than the owner of the freehold of the land to which they are attached, but "designated land" does not include any land in Ontario that is, within the meaning of paragraph *c* of subsection 15 of section 66 of the *Income Tax Act* (Canada), "Canadian resource property"; 1970-71,  
c. 63 (Can.)
- (c) "dispose", "disposed of", and expressions of like import when used with reference to designated land, mean a disposition which has or is deemed to have occurred with respect to designated land;
- (d) "disposition" includes,
  - (i) a sale or transfer, however effected, of any part of the beneficial interest in designated land,
  - (ii) the sale, transfer, assignment or exercise of an option providing for the acquisition of designated land,
  - (iii) the entering into a lease or similar arrangement of any kind with respect to designated land where the term of the lease or arrange-

ment, including any renewals or extensions thereof, may exceed ten years, and the sale, assignment or transfer of the rights under any such lease or arrangement exercisable by the lessee or in the case of an arrangement similar to a lease, by the person in a position similar to that of the lessee,

- (iv) any change in the entitlement to, or any accretion to, the beneficial interest in designated land as a result of the death of any person,
- (v) any change in the composition of, the membership of, the persons beneficially interested in, or the beneficiaries under any organization, syndicate, association of persons, partnership, joint venture, corporation without share capital or trust, 50 per cent or more of the assets of which consist of designated land, if the effect of such change not being a change in the beneficiaries under a trust is that control over the use of the designated land or the proceeds of its disposition is exercisable in fact, and whether directly or indirectly, by a different person or group of persons,
- (vi) the sale or transfer in any manner of the beneficial interest in, or the issue and allotment of, shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are shares in the capital stock of a corporation 50 per cent or more of the assets of which consist of designated land, or
- (vii) the amalgamation, merger, consolidation or any other like arrangement of any two or more corporations, 50 per cent or more of the assets of any one of which consist of designated land, that has the effect of making control over the use of the designated land or the proceeds of its disposition or of a subsequent disposition exercisable in fact, and whether directly or indirectly, by a different person or group of persons,

but for greater certainty "disposition" does not include any transfer of property for the purpose only of securing a debt or a loan, or any transfer by a

creditor for the purpose only of returning property that had been used as security for a debt or a loan, or any transfer of property by virtue of which there is a change in the legal ownership of the property without any change in the beneficial ownership thereof;

(e) "farming" includes tillage of the soil, the breeding, raising or grazing of live stock of all kinds, the raising of poultry and the production of poultry products, fur farming, dairy farming, fruit growing, the growing of food for human consumption or for the feeding of live stock, and the keeping of bees;

(f) "farming corporation" means a corporation,

(i) every share of which that confers on the holder thereof the right to vote is, at the date of any disposition with respect to which the expression is being applied, owned either by the transferor making the disposition or by a member of his family, and

(ii) 95 per cent of the assets of which are "farming assets" within the meaning of section 17a of *The Succession Duty Act*;

R.S.O. 1970,  
c. 449

(g) "member of the family" means grandparents, parents, uncles, aunts, the spouse, brothers, sisters, children, grandchildren, nephews, nieces, sons-in-law, daughters-in-law, mother-in-law or father-in-law of a person with respect to whom the expression is being applied;

(h) "Minister" means the Minister of Revenue;

(i) "municipality" includes a district, regional or metropolitan municipality, a local board, as defined in *The Municipal Affairs Act*, of any municipality, and an elementary or secondary school board or board of education having jurisdiction in territory without municipal organization;

R.S.O. 1970,  
c. 118

(j) "net maintenance costs" means all costs incurred in connection with the maintenance of the designated land to which the expression is being applied, other than costs incurred in connection with the disposition of designated land, and after deducting any income howsoever earned by the transferor from



the designated land, including income from his own use of the designated land or from the granting of any right or interest therein, but no deduction shall be made with respect to income earned from farming the designated land by a farmer who is carrying on farming thereon and whose chief source of income is from farming and who owns the designated land;

(k) "prescribed" means prescribed by regulation;

(l) "proceeds of disposition" includes,

(i) the gross sale price or any other consideration given for the disposition of designated land or received by the transferor of designated land, the assumption, undertaking, extinguishment or release of any liability of the transferor or affecting designated land disposed of, and the value of any benefit of whatsoever kind conferred on the transferor or on some person at the direction of the transferor as part of the arrangement relating to the disposition of designated land, or

(ii) an amount not less than the fair market value of the designated land disposed of where there is a disposition thereof by a transferor to a person or persons with whom the transferor is not dealing at arm's length, or where the disposition is by way of gift,

but no proceeds of disposition arise on a disposition under the last will and testament of any person or on the intestacy of any person;

(m) "regulation" means a regulation made under this Act;

(n) "tax" unless expressly otherwise restricted, means the taxes imposed by this Act and the interest payable thereon;

(o) "taxable value" when used in relation to designated land means the amount by which the proceeds of disposition of designated land exceed the adjusted value of that designated land at the time of its disposition, and the taxable value of designated land shall be computed separately for each disposition of designated land;



(p) "transferor" means the person or persons who make or effect any disposition with respect to designated land with respect to which the expression is being applied;

(q) "Treasurer" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs.

(2) Persons who, for the purposes of the *Income Tax Act* <sup>Idem.</sup> (Canada), would not be considered as dealing at arm's length <sup>1970-71, c. 63 (Can.)</sup> shall not be considered to deal at arm's length for the purposes of this Act.

(3) For the purpose of this Act, "disposition" includes any <sup>Idem</sup> arrangement or ordering in the nature of a disposition, whether by one transaction or a number of transactions effected for the purpose, that in any manner effectively changes the identity of the persons who are entitled in fact or in law to control or derive a profit from designated land or its disposition.

(4) For greater certainty, it is declared that where a dis- <sup>Idem</sup> position described in subclause v, vi or vii of clause d of subsection 1 occurs, it is deemed to be a disposition of or with respect to any designated land referred to in that one of the said subclauses that describes the disposition that has occurred.

(5) For the purpose of this Act, "control" means control <sup>Control defined</sup> by another corporation, individual or trust that is in fact exercising effective control either directly or indirectly and either through the holding of shares of the corporation or of any other corporation or through the holding of a significant portion of any class of shares of the corporation or of the outstanding debt of the corporation or of any shareholder or member of the corporation, or by any other means whether of a like or different nature.

(6) Where designated land is disposed of by a corporation, <sup>Distribution on winding up of corporation</sup> 50 per cent or more of the assets of which consist of designated land, to its shareholders as a part of the winding up and dissolution of the corporation, the adjusted value of the designated land on the first subsequent disposition of it by such shareholders shall be computed as though the corporation, whether or not then in existence, and such shareholders were the same person.

(7) Where, on the disposition of any designated land, the <sup>Apportionment</sup> adjusted value applicable to the designated land disposed of is determinable or ascertainable by reference to a larger

amount of designated land of which that being disposed of is only a part, the adjusted value applicable to the designated land being disposed of shall be apportioned in such reasonable manner as will reflect the proportional value that the designated land disposed of is to the value of the larger amount of designated land.

Idem

(8) For the purpose of subclause iv of clause *a* of subsection 1, where the number of months (excluding any period of time prior to the 9th day of April, 1974) during which the transferor owned the designated land prior to his disposition of it exceeds the largest number of such months that is exactly divisible by twelve,

- (a) sub-subclause A of the said subclause iv applies to such excess number of months as though the number ten appearing in sub-subclause A were that number that is in the same ratio to ten as the number of such excess months is to twelve; and
- (b) paragraph 1 of sub-subclause B of the said subclause iv applies to include net maintenance costs incurred by the transferor during such excess number of months.

Tax on  
designated  
land

2.—(1) Subject to section 4, where, after the 9th day of April, 1974, any disposition of designated land occurs, there shall be imposed and levied, for the uses of Her Majesty in right of Ontario, upon the designated land with respect to which such disposition occurs a tax computed at the rate of 50 per cent of the taxable value of designated land with respect to which such disposition occurs.

Idem

(2) Where there is a disposition within the meaning of subclause vi or vii of clause *d* of subsection 1 of section 1 of any designated land and the result of the disposition is that control of the corporation beneficially interested in the designated land is exercisable by a person or a group of persons different from those by whom control of the corporation was exercisable before the disposition, there shall be imposed and levied, for the uses of Her Majesty in right of Ontario, upon the designated land a tax, in addition to the tax imposed by subsection 1, calculated on the proceeds of disposition and computed at the rate of,

- (a) where the corporation beneficially interested in the designated land is, immediately after the disposition has occurred, not a non-resident corporation as defined in *The Land Transfer Tax Act, 1974*, three-tenths of 1 per cent on the first \$35,000 of the proceeds of

disposition and six-tenths of 1 per cent on the remainder of the proceeds of disposition, or

- (b) where the corporation beneficially interested in the designated land is, immediately after the disposition has occurred, a non-resident corporation as defined in *The Land Transfer Tax Act, 1974*, 20 per cent of the proceeds of disposition.

(3) The tax is payable by the transferor of any designated land disposed of by him and shall be paid at the time of the disposition of the designated land, and if not then paid, the tax bears interest at the rate of 9 per cent per annum until a different rate is prescribed. Payment of tax

(4) The tax is payable to the Treasurer and shall be remitted to the Minister by the person responsible for its payment. Idem

3. (1) An administrator, executor, trustee or person acting in a fiduciary capacity for the transferor of designated land that is disposed of is not, as such, personally liable for the tax, but no person in Ontario shall pay, deliver, assign or transfer to or for the benefit of the transferor or of any person at the direction of the transferor any money or property coming into his hands as administrator, executor, trustee or person acting in a fiduciary capacity and by reason of the disposition of designated land without deducting therefrom or collecting an amount sufficient to pay the tax on the designated land disposed of. Trustees not personally liable

(2) Every such administrator, executor, trustee or person acting in a fiduciary capacity for the transferor who makes or permits any payment, delivery, assignment or transfer referred to in subsection 1 without deducting or collecting an amount sufficient to secure the tax is guilty of an offence and on summary conviction is liable to pay to the Treasurer as a penalty an amount equal to 150 per cent of the amount of such tax. Penalty

(3) An administrator, executor, trustee or person acting in a fiduciary capacity for the transferor who has deducted or collected any money on account of the tax shall remit it to the Minister and is deemed to be a person who has received money for the Crown or for which he is accountable to the Crown within the meaning of *The Financial Administration Act*. Tax held by trustee

R.S.O. 1976  
c. 166

4. No designated land is liable to the tax imposed by subsection 1 of section 2, Exemptions

- (a) when the designated land is taken under statutory



authority or is sold to a person by whom notice of an intention to take it under statutory authority was given;

R.S.O. 1970,  
c. 100

- (b) when the designated land is disposed of to Her Majesty in right of Ontario, a Crown agency within the meaning of *The Crown Agency Act*, a municipality, Ontario Hydro, Her Majesty in right of Canada, or to an agent of Her Majesty in right of Canada;
- (c) when the designated land is disposed of by a corporation, 50 per cent or more of the assets of which consist of designated land, to its shareholders as part of the winding up and dissolution of the corporation;
- (d) when the designated land disposed of is, at the time of its disposition, predominantly used as a tourist resort of a class, kind or designation prescribed by the Minister by regulation, or for commercial or industrial purposes, other than the rental of apartment suites or residential accommodation for use as the principal residence of the lessee, and if the designated land so disposed of contains buildings, structures or other capital improvements, excluding any costs or value attributable to subdividing and servicing the designated land, that have a value, at the time of the disposition, equal to 40 per cent or more of the proceeds of disposition of the designated land;
- (e) when the designated land disposed of is the principal residence of the transferor ordinarily inhabited by him or by him and his spouse, children or other dependants, together with land subjacent to the principal residence and land immediately contiguous to such subjacent land to the extent that such subjacent land and the immediately contiguous land do not exceed ten acres;
- (f) when the designated land disposed of is not designated land described in clause e or is not immediately contiguous thereto, and is used by the transferor or by members of his family for his or their personal recreation and enjoyment and is his principal recreational property, but this clause does not apply to any part of such designated land so disposed of in excess of twenty acres or where the disposition is to a non-resident person as defined in *The Land Transfer Tax Act, 1974*;

1974, c. ...



(g) when the designated land disposed of includes a building or structure,

(i) that the transferor has constructed or caused to be constructed, or

(ii) that the transferor has renovated or caused to be renovated at a cost of not less than 20 per cent of,

(A) where the designated land was acquired by him after the 9th day of April, 1974, the cost to him of his acquisition of the designated land or the fair market value of the designated land at the time of its acquisition by the transferor if such fair market value is greater than the cost of acquisition, or

(B) where the designated land was acquired by the transferor on or before the 9th day of April, 1974, its fair market value ascertained as at the 9th day of April, 1974,

and that has a value at the time of the disposition of the designated land of not less than 40 per cent of the total proceeds of disposition of the designated land; or

(h) when the designated land disposed of is, at the time of its disposition, used by the transferor, by members of the family of the transferor, by a farming corporation, or by the transferor and members of his family in farming, and the disposition of such designated land is to a member or members of the family of the transferor or to a farming corporation for the purpose of enabling the person to whom the disposition is made to carry on farming on the designated land.

5. (1) Every tax imposed upon designated land by this Act is, until paid, a special lien in favour of Her Majesty in right of Ontario upon the designated land and has complete priority over every claim, privilege, lien, encumbrance, right, title or interest of any person that arose or came into existence as part of or subsequent to the disposition of the designated land as a result of which tax was imposed

Special  
lien  
conferred

on the designated land, and such special lien has priority over every execution in the hands of any sheriff or other officer that affects the designated land, whether the designated land was subject to the execution before or after the disposition of the designated land.

Where  
no lien  
attaches

(2) The special lien conferred by this Act does not attach to any designated land disposed of where the Minister has given his certificate that no lien is claimed with respect to the designated land, but the giving of the certificate does not destroy the special lien for tax resulting from any disposition of designated land occurring after the date as of which the certificate is given, and the giving of the certificate does not impair or relieve the transferor from his responsibility to pay any tax imposed by this Act.

Idem

(3) Where designated land is disposed of and, in order to recognize or give effect to the disposition, it is necessary to register upon the title to the designated land disposed of an instrument or writing under the registry system or land titles system, the special lien conferred by this Act does not attach to the designated land in respect of such disposition if there is attached to or made part of such instrument or writing, at the time it is tendered to a land registrar for registration, the affidavit of the transferor, or of some individual authorized in writing by the transferor to make such affidavit, stating that the disposition of designated land evidenced in the instrument or writing attached to such affidavit or of which the affidavit is a part is a disposition described in a clause and, where applicable, a subclause (which clause and subclause shall be expressly named in the affidavit) of section 4 of this Act, but the making of such affidavit does not impair or relieve the transferor from his responsibility to pay any tax imposed by this Act.

Notice of  
intended  
sale

(4) Before the issue of a warrant under subsection 5, the Minister shall send by mail or by registered mail, or deliver by personal service, a notice to all persons who have an interest, encumbrance or charge registered under the land titles system or the registry system against the designated land for the sale of which the warrant is to be issued that he intends to have the designated land that is subject to the special lien conferred by this Act sold pursuant to subsection 5, and such notice shall be given not less than thirty days or more than sixty days before the issue of the warrant, and shall be sent, in the case of a notice sent by mail, to the latest known address of each person to whom notice is to be given and to such other address as, in the opinion of the Minister, may be more likely to bring the notice to the person's attention.

(5) Subject to subsection 4, the Minister may, by his warrant <sup>Recovery of lien by sale</sup> directed to the sheriff of the county, district or judicial district in which is situate any designated land that is subject to the special lien conferred by this Act, require the sheriff to sell the designated land within six months or such longer period as is stated in the warrant, and the sheriff, upon receiving the warrant, shall proceed within the period specified to sell the land in the same manner as for a sale under a writ of execution issued out of the Supreme Court, and any person purchasing from the sheriff at such a sale shall take good title to the designated land free and clear of all encumbrances and claims of any kind of all persons whatsoever that do not have priority over the special lien but subject to all the rights and encumbrances of persons who have an interest in the designated land that have priority over the special lien.

(6) The proceeds of sale received by the sheriff from a <sup>idem</sup> sale under a warrant authorized by subsection 5 shall be applied first to pay the costs and expenses of the sheriff in conducting the sale and next in payment of the amount of tax that was a special lien on the designated land conferred by this Act, and any surplus thereafter remaining shall be paid, in order of their priorities, to those whose rights in the designated land were subject to the special lien, and, if the order of those priorities cannot be established by the sheriff, shall be paid into court to be dealt with as the court shall direct.

(7) At any time prior to a sale authorized by subsection 5, <sup>Right to discharge lien</sup> any person interested in the designated land affected by the special lien conferred by this Act may pay to the Minister a sum sufficient to discharge the special lien, and if the special lien is discharged by some person having an encumbrance against the designated land, the amount accepted by the Minister may be added to that person's encumbrance and shall, for all purposes and in every court, thereafter be treated as part of the encumbrance and shall bear interest at the rate provided for in the encumbrance and shall be collectable in the same way as the encumbrance is enforceable.

(8) Upon such conditions as he may impose, the Minister <sup>Waiver of lien</sup> may abandon, postpone, release or waive with respect to all or any part of any designated land any special lien conferred by this Act.

6. Where the result of one or more sales, exchanges, declarations of trust, or other transactions of any kind whatever is that a transferor has disposed of property under circumstances such that he may reasonably be considered to have <sup>Avoidance</sup>



artificially or unduly reduced the amount of the taxable value of designated land that he has disposed of, the taxable value shall be computed as if such reduction had not occurred.

#### Refund

7. Where a person has paid an amount under this Act as tax that is not payable as tax under this Act, the Minister may, upon receipt of satisfactory evidence that the amount was wrongly paid, authorize the Treasurer to refund such amount or any part thereof, but no refund shall be made unless it is applied for within three years after the date of the payment of any amount that is alleged not to have been payable as tax under this Act.

#### Assessment

8.—(1) Where any person responsible for the payment of tax fails to pay it as required under this Act, the Minister may make an assessment of the tax for which such person is responsible and which has not been paid.

#### Notice of assessment

(2) Where the Minister has made an assessment under subsection 1, he shall send by mail or by registered mail or deliver by personal service a notice of assessment to the person so assessed, and the amount of the assessment shall be remitted to the Minister by the person so assessed within thirty days from the date of mailing or delivery of the notice of assessment.

#### Idem

(3) Where the Minister has made an assessment under subsection 1, the notice of assessment may provide that the amount assessed is payable forthwith.

#### Assessment from time to time

(4) The Minister may, at any time he considers reasonable, assess or reassess any tax payable by any person under this Act.

#### Assessment on inspection

(5) Where it appears from an inspection, audit or examination of the books of account, records or documents of any person that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate the tax payable in such manner and form and by such procedure as the Minister considers adequate and expedient, and the Minister shall assess the amount of the tax.

#### Notice of assessment under subs. 4 or 5

(6) The Minister shall send by mail or by registered mail or deliver by personal service a notice of the assessment made under subsection 4 or 5 to the person so assessed at his latest known address, and the notice may provide that the amount assessed is payable forthwith.

#### Liability to tax not affected

(7) Liability for tax is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.



(8) The Minister is not bound by any information delivered by or on behalf of any person responsible for the payment of the tax and may, notwithstanding any information that has been delivered or if no information has been delivered, assess the tax payable under this Act. Minister not bound by information

(9) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. Assessment valid and binding

(10) The amount of any assessment is payable within the time required by the notice of assessment whether or not an objection or appeal from the assessment is made or taken. Idem

9.—(1) Where a person objects to an assessment made under section 8, he may, within ninety days after the day of mailing or delivery by personal service of the notice of assessment, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. Notice of objection

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. Service

(3) Upon receipt of a notice of objection, the Minister shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, and he shall thereupon notify the person who has made the objection of his action by registered mail. Reconsideration

10.—(1) After the Minister has given the notification required by subsection 3 of section 9, a person who has served notice of objection under section 9 may appeal to the Supreme Court to have the assessment vacated or varied or reassessed, but no appeal under this section shall be instituted after the expiration of ninety days from the day on which notice has been mailed to such person under subsection 3 of section 9, and an appeal under this section shall not be made to the Divisional Court. Appeal

(2) An appeal to the Supreme Court shall be instituted by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or with the Local Registrar of the Supreme Court for the county, district or judicial district in which is situate the designated land the tax imposed on which is under appeal. Appeal how instituted

- Service (3) A notice of appeal shall be served on the Minister by being sent by registered mail addressed to the Minister.
- Contents of notice of appeal (4) The person appealing shall set out in his notice of appeal a statement of the allegations of fact and the statutory provisions and reasons that he intends to submit in support of his appeal.
- Reply to notice of appeal (5) After the service on him of a notice of appeal under this section, the Minister shall with all due despatch serve on the person appealing and file in the Supreme Court where the notice of appeal was filed a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as he considers relevant.
- Matter deemed action (6) Upon the filing in the Supreme Court of the material referred to in subsection 5, the matter shall be deemed to be an action in the court, and the practice and procedure of the court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter that is deemed to be an action under this subsection, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court.
- Disposition of appeal (7) The court may dispose of an appeal by allowing it, by dismissing it, or by allowing it in part and directing the Minister to vacate the assessment, vary the assessment or reconsider the assessment and reassess as indicated by the judgment of the court.
- Idem (8) In delivering judgment disposing of an appeal, the court may order payment or refund of tax by the appellant or by the Treasurer, as the case may be, and may make such order as to cost as is considered proper.
- Irregularities (9) No assessment shall be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of any person in the observance of any directory provision of this Act.
- Extension of time (10) The time within which a notice of objection under subsection 1 of section 9 or a notice of appeal under subsection 1 of this section is to be served may be extended by the Minister if application for extension is made before expiration of the time for service of the notice of objection or notice of appeal, as the case may be.

**11.** Any payment to the Treasurer under this Act, other than a payment of penalties or fines imposed for offences under this Act, shall first be applied to any interest payable on any tax imposed by this Act. Payment applied against interest

**12.**—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises where any business is carried on or any property is kept or anything is done in connection with any business or where any books or records are or should be kept, and may. Investigations

- (a) audit or examine the books, records, accounts, vouchers, letters, telegrams, or other documents that relate or may relate to any disposition of designated land or to the amount of tax payable under this Act;
- (b) examine any designated land disposed of or any property the value of which formed or may have formed part of the adjusted value or proceeds of disposition referable to any disposition of designated land, or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of any information that was or should have been furnished to the Minister or the amount of any tax payable under this Act;
- (c) require any transferor or any person to whom a disposition of designated land has been or may have been made or, if such transferor or person is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof or any other person on the premises of such transferor or person to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration, and for that purpose require such person to attend at the premises with him; and
- (d) if during the course of an audit or examination it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.



Idem

(2) The Minister may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any transferor, or if such transferor is a partnership or corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof,

- (a) any information concerning designated land or a disposition of designated land that is believed to have occurred; or
- (b) production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein.

Idem

(3) The Minister may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation holding any amount for or paying or liable to pay any amount to a transferor or to any person to whom a disposition of designated land has been or may have been made production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents within such reasonable time as is stipulated therein.

Idem

(4) The Minister may, for any purpose related to the administration or enforcement of this Act, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing an officer of the Ministry of Revenue, together with such members of the Ontario Provincial Police Force or other peace officers as he calls upon to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

Documents  
to prove  
tax  
liability

(5) The Minister may, by registered letter or by a demand served personally, require the production under oath or otherwise by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books



or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer for the purpose of determining what tax, if any, is imposed by this Act on designated land and what person is responsible for its payment, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand.

(6) Where a book, record or other document has been seized, <sup>Copies</sup> examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may make or cause to be made one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way.

(7) No person shall hinder or molest or interfere with <sup>Compliance</sup> any person doing anything that he is authorized by this section to do or shall prevent or attempt to prevent any person doing any such thing.

(8) Notwithstanding any other law to the contrary, every <sup>Idem</sup> person shall, unless he is unable to do so, do everything he is required by this section to do.

(9) Declarations or affidavits in connection with statements <sup>Adminis-  
tration  
of oaths</sup> of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefor.

**13.—**(1) Upon default of payment of any amount assessed <sup>Recovery  
of tax</sup> under section 8,

(a) the Minister may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred and shall be tried without a jury; and

(b) the Minister may issue a warrant directed to the sheriff of any county, district or judicial district in which any property of a person liable to make a

payment or remittance under this Act is located or situated for the amount of the tax owing by him, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

Compliance  
proved by  
affidavit

(2) For the purpose of any proceeding or prosecution taken or instituted under this Act, the facts necessary to establish compliance on the part of the Minister with this Act as well as the failure of any person to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue.

Remedies to  
recover tax

(3) The use of any of the remedies provided by this section does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any tax are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or at law in favour of Her Majesty in right of Ontario.

Garnish-  
ment

**14.—**(1) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment or remittance under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act.

Idem

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Liability  
of debtor

(3) Every person who has discharged any liability to a person liable to make a payment or remittance under this Act without complying with the requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is the lesser.

Service of  
garnishee

(4) Where a person who is or is about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carries on business under

a name or style other than his own name, the registered or other letter under subsection 1 may be addressed to the name or style under which he carries on business and in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

(5) Where the persons who are or are about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carry on business in partnership, the registered or other letter under subsection 1 may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership. Idem

(6) Where the Minister has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the Minister in the registered letter or letter served personally. Garnishment of wages

**15.**—(1) Every person who recklessly or knowingly makes an affidavit provided for in subsection 4 of section 5 that is false in some material particular is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 plus an amount that is not less than the tax imposed on the designated land by subsection 1 of section 2, as determined under subsection 3, and resulting from the disposition with respect to which the affidavit relates. Penalty for false affidavit

(2) Every person who is required to remit to the Minister the tax imposed by this Act and who fails to remit the tax is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and an additional amount of not less than the tax, as determined under subsection 3, that should have been remitted. Penalty for not remitting tax

(3) The Minister shall determine the amount of the tax referred to in subsection 1 or 2 from such information as is available to him, and shall issue a certificate as to the amount, but except where the Minister considers that there has been deliberate evasion of this Act, he shall not take into account a period of more than three years in determining the amount of tax referred to in the certificate. Certificate of tax avoided



Idem

(4) In any prosecution under subsection 1 or 2, a certificate that is signed or that purports to be signed by the Minister or Deputy Minister of Revenue and that states the amount of tax is *prima facie* evidence of the amount of tax referred to in subsection 1 or 2 and of the authority of the person giving or making the certificate without any proof of appointment or signature.

Information  
for more  
than one  
offence

(5) Any information in respect of an offence under this Act may be for one or more than one offence, and no information, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences.

Tax not  
affected

(6) Neither the application of any provision of this section nor the enforcement of any penalty under this Act suspends or affects any remedy for the recovery of any tax payable under this Act.

Offences

**16.**—(1) Every person who contravenes section 12 is guilty of an offence and on summary conviction is liable to a fine of \$25 for each day during which the default continues.

Idem

(2) Every person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is guilty of an offence and on summary conviction is liable for a first offence to a fine of not less than \$25 and not more than \$200, and for any subsequent offence to a fine of not less than \$100 and not more than \$1,000.

Idem

(3) Every person who has,

- (a) made, participated in, assented to or acquiesced in the making of false or deceptive statements required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of any record, document or thing;
- (c) wilfully, in any manner, evaded or attempted to evade compliance with this Act or payment of tax imposed by this Act; or
- (d) conspired with any person to commit any offence described in clause *a*, *b* or *c*,

is guilty of an offence and on summary conviction, in addition to any penalty otherwise provided by this Act, is



liable to a fine of not less than \$200 and not more than an amount equal to double the amount of the tax that should have been remitted or that was sought to be evaded, or to imprisonment for a term of not more than two years, or to both.

(4) Any officer, director or agent of a corporation who <sup>Idem</sup> directed, authorized, assented to, acquiesced in or participated in the commission of any act which is an offence under this Act for which the corporation would be liable for prosecution is guilty of an offence and on summary conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.

**17.** An information in respect of an offence against this <sup>Limitation</sup> Act shall be laid within six years of the time when the matter of the information arose.

**18.—(1)** Except as authorized by this section, no person <sup>Communication of information</sup> employed by the Government of Ontario shall,

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act; or

(b) knowingly allow any person to inspect or to have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

(2) Notwithstanding any other Act, but subject to sub-<sup>Officials not compellable as witnesses</sup> section 3, no person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

(a) to give evidence relating to any information obtained by or on behalf of the Minister for the purposes of this Act; or

(b) to produce any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

(3) Subsections 1 and 2 do not apply in respect of,

<sup>Exceptions for legal proceedings</sup>

(a) criminal proceedings under any Act of the Parliament of Canada; or

(b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or

- (c) proceedings relating to the administration or enforcement of this Act or the collection or assessment of tax.

Exception  
for internal  
adminis-  
tration

(4) A person employed by the Government of Ontario may, in the course of his duties in connection with the administration or enforcement of this Act,

- (a) communicate or allow to be communicated to an official or authorized person employed by the Government of Ontario in the administration and enforcement of any laws relating to the raising of revenues for provincial purposes any information obtained by or on behalf of the Minister for the purposes of this Act; and
- (b) allow an official or authorized person employed by the Government of Ontario in the administration or enforcement of any laws relating to the raising of revenues for provincial purposes to inspect or have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

Exception  
for objection  
or appeals,  
etc.

(5) Notwithstanding any other provision of this Act, the Minister may permit a copy of any book, record, writing, return or other document obtained by him or on his behalf for the purposes of this Act to be given to,

- (a) the person from whom the book, record, writing, return or other document was obtained; or
- (b) any person,

- (i) for the purposes of any objection or appeal that has been or may be taken by that person under this Act arising out of any assessment of tax, interest or penalties under this Act in connection with which the book, record, writing, return or other document was obtained, or

- (ii) by whom any amount payable under this Act is payable or has been paid,

or the legal representative of any person mentioned in clause *a* or *b* or the agent of any such person authorized in writing in that behalf.

Exception  
for tax  
enforcement  
in other  
jurisdictions

(6) Notwithstanding any other provision of this Act, the Minister may permit information or a copy of any book,

record, writing, return or other document obtained by him or on his behalf for the purposes of this Act to be given to,

- (a) a minister of the Government of Canada or any officer or employee employed under a minister of the Government of Canada for the purposes of administration of any Act of the Parliament of Canada imposing any tax or duty; or
- (b) a minister of the government of any province of Canada or officer or employee employed under that minister, for the purposes of administering and enforcing an Act of the Legislature of that province imposing any tax or duty,

if the minister of the Government of Canada or the minister of the government of another province, as the case may be, is permitted to give to the Minister information or copies of any book, record, writing, return or other document obtained by or on behalf of the minister of the Government of Canada, or the minister of the government of that other province, as the case may be, in the administration or enforcement of that Act for the purposes of the administration of this Act.

**19.** Where a disposition of or with respect to designated land occurs after the 9th day of April, 1974 and is the result of an agreement that is proved to the satisfaction of the Minister to have been reduced to writing and executed by the parties to it before the 10th day of April, 1974 and that has been filed with the Minister before the 16th day of May, 1974, no tax is payable under this Act by the transferor with respect to such disposition of designated land. Where no  
tax payable

**20.**—(1) The Minister may make regulations prescribing any form required by this Act or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain. Regulations

(2) The Lieutenant Governor in Council may make regulations, Idem

- (a) exempting from tax any designated land or class of designated land or exempting from tax any designated land with respect to which any disposition or class of disposition occurs;
- (b) authorizing any person to grant, after an investigation of such matters as are specified, any exemption that may be given under clause a;



- (c) authorizing the refund of any tax and specifying the conditions upon which such refund may be made;
- (d) prescribing the evidence required to establish facts relevant to assessments under this Act;
- (e) requiring any class of persons to make information returns respecting any class of information required in connection with assessments under this Act;
- (f) requiring a person who is, by a regulation made under clause e, required to make an information return to supply a copy of the information return or of a prescribed portion thereof to the person or persons in respect of whose designated land the information return or portion thereof relates;
- (g) authorizing a designated officer or class of officers employed by the Government of Ontario to exercise powers or perform duties of the Minister under this Act;
- (h) prescribing any rate of interest that is to be prescribed;
- (i) providing for the payment of interest on any refund or on any payment of tax authorized by regulation, and prescribing the rate of such interest and the method by which it is to be calculated;
- (j) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (k) providing for relaxing the strictness of this Act relative to the incidence of tax hereunder in special circumstances where, without such relaxation, inconvenience or hardship might result or the development of designated land might be impeded;
- (l) that are considered necessary for the purpose of carrying into effect the provisions of this Act according to their intent and of supplying any deficiency therein.

Idem

(3) A regulation is, if it so provides, effective with reference to a period before it was filed.



**21.** Upon receiving Royal Assent, this Act shall be deemed to have come into force on the 9th day of April, 1974 and to apply to every disposition made, tax imposed and everything that may be required to be done under this Act that is made, imposed or done after the 9th day of April, 1974. Commence-  
ment

**22.** This Act may be cited as *The Land Speculation Tax Act, 1974*. Short title



Received of the Treasurer of the United States  
the sum of \$100.00

for the purchase of the land described in the  
following certificate of purchase

Section 36, Township 36 North, Range 10 East,  
of the 4th Principal Meridian, in the State of  
Nebraska, containing 36.00 acres.

100.00

Profits resulting from the Disposition of  
Land

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*1st Reading*

April 9th, 1974

*2nd Reading*

*3rd Reading*

---

THE HON. A. K. MEEN  
Minister of Revenue

---

*(Government Bill)*



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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act to impose a Tax on Land in respect of  
certain speculative Transactions affecting the  
Control or Ownership of Land**

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THE HON. A. K. MEEN  
Minister of Revenue

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*(Reprinted as amended by the Committee of the Whole House)*

## EXPLANATORY NOTES

In accordance with the proposals contained in the Treasurer's Budget, this Bill imposes a tax on certain land in Ontario that is "designated land" within the meaning of the Bill. The rate of tax is 50 per cent of the increase in value of designated land after April 9, 1974, and is imposed only when the land is disposed of after that date. A change of control of a corporation or association of persons 50 per cent or more of whose assets consist of designated land will be treated as a disposition of the designated land occasioning tax unless entitled to exemption.

The person disposing of designated land is responsible for payment of the tax imposed on that land, and designated land does not include a mineral property that is a "Canadian resource property" under the *Income Tax Act* (Canada).

The Bill also provides that certain dispositions of designated land may be made tax free. These are: a person's principal residence or principal recreational property, transfers to the Crown or a Crown agency, transfers by or to a municipality or a charitable organization, expropriations of land, transfers of land used for industrial or commercial purposes, other than apartment buildings, that includes buildings and improvements worth at least 40 per cent of the property sold, land on which the owner has erected a building or on which there is a building that the owner has renovated if the building is worth at least 40 per cent of the value of the land and building, and farming land disposed of within the family to enable the transferee to carry on farming.

Where a person owns and rents out residential property that qualifies as an "investment property" in section 20 of the Bill, he is entitled to a reduction of 10 per cent of the taxable value of that property for each year that the property was an investment property before its disposition, but this reduction applies only when the property is disposed of after April 9, 1977.

Under the circumstances described in section 21 of the Bill, a subdivider may dispose of subdivided, serviced land to a builder who agrees to commence construction of buildings on the property so disposed of within nine months, as to 50 per cent of the land so disposed of, and within eighteen months, as to the balance of the property so disposed of. Where this agreement is made, the subdivider ceases to be responsible for payment of the tax resulting from the disposition, but the builder must assume responsibility for the tax until he complies with his agreement to commence construction. When he complies with the agreement, the tax is cancelled.

Section 22 of the Bill allows a person over age sixty-five to dispose of a property that was his principal residence for at least five years immediately prior to his ceasing to occupy it as his principal residence after attaining age sixty-five. The disposition is exempt from tax even though the property is not, at the time of the disposition, the transferor's principal residence, provided that it was his principal residence when he ceased to inhabit it after reaching age sixty-five, and provided that he is not ordinarily inhabiting as his principal residence another property that he or his spouse owns at the time of the disposition. This exemption is available only once to a transferor.

Where control of a corporation owning designated land changes hands, an additional tax is imposed on the land at the rate applicable to conveyances under *The Land Transfer Tax Act, 1974* where, after the disposition, the control is exercisable by a non-resident person within the meaning of that Act. The sale of shares in a land-owning corporation does not attract tax under that Act because no new registration of the land is required on the transfer of shares.

BILL 25

1974

**An Act to impose a Tax on Land in respect of  
certain speculative Transactions affecting the  
Control or Ownership of Land**

**H**ER MAJESTY, by and with the advice and consent of  
the Legislative Assembly of the Province of Ontario,  
enacts as follows:

**1.—(1)** In this Act,

Interpre-  
tation

(a) "adjusted value" means, in the case of any particular disposition of designated land to which the expression is being applied, the aggregate of,

(i) where the designated land was acquired by the transferor after the 9th day of April, 1974,

(A) otherwise than as described in sub-subclause B, C or D, the cost to the transferor of its acquisition,

(B) under the will or on the intestacy of a person dying after the 9th day of April, 1974, the fair market value of the designated land at the death of such person,

(C) the fair market value of the designated land at the time it was so acquired if it was so acquired,

1. by the transferor from a person or persons with whom the transferor was not dealing at arm's length at the time the designated land was so acquired by him,

2. by the transferor that is a corporation that so acquired the designated land in consideration of the allotment and issue of its shares,

3. by the transferor that is an organization, syndicate, association of persons, partnership, joint venture or corporation without share capital that so acquired the designated land in consideration of the admission to membership therein of any person, or

4. by the transferor by way of gift,

or

(D) as the result of a disposition described in clause *h* of section 4, the adjusted value applicable to the designated land on the first disposition of it after the 9th day of April, 1974, that was a disposition described in clause *h* of section 4 and made by a transferor of whose family the subsequent transferor is a member,

(ii) where the designated land was acquired by the transferor on or before the 9th day of April, 1974, the fair market value of the designated land ascertained as at the 9th day of April, 1974,

(iii) the cost of improvements made by the transferor to the designated land after the 9th day of April, 1974,

(iv) for each twelve-month period that does not commence earlier than the 9th day of April, 1974 during which the transferor owns the designated land prior to his disposition of it, the lesser of either,

(A) 10 per cent of the amount determined under either subclause i or ii, whichever is applicable, or

(B) the aggregate of,

1. the net maintenance costs incurred by the transferor after the 9th day of April, 1974 with respect to the designated land, and



2. the costs incurred by the transferor in connection with disposing of the designated land if it was acquired by him after the 9th day of April, 1974, or where it was acquired by him on or before that date, the proportion of the costs incurred by the transferor in connection with disposing of the designated land that is in the same ratio to the whole of such costs as the fair market value of the designated land at the 9th day of April, 1974 is of the proceeds of disposition of the designated land by the transferor,

and

- (v) in the case of a disposition of designated land used in farming and to which clause *h* of section 4 does not apply, an amount equal to compound interest at the rate of 10 per cent per annum calculated with annual rests upon the amount determined under subclause i or ii, whichever is applicable to the transferor, for the number of years preceding the disposition and not including any period of time prior to the 9th day of April, 1974 throughout which farming was carried on on the designated land by the transferor making the disposition to which clause *h* of section 4 does not apply, or by any previous transferor of whose family the transferor making the disposition to which clause *h* of section 4 does not apply was a member, or by members of the family of such previous transferor, or by a farming corporation to which a disposition by such previous transferor would be a disposition described in clause *h* of section 4;

- (b) "designated land" means all land situate in Ontario and every right, estate, interest, tenement or hereditament existing at law or in equity in, over, to, or affecting land or capable of being registered in any land registry office in Ontario, fixtures, and buildings or structures attached to land, whether or not owned by persons other than the owner of the freehold of the land to which they are attached,

1970-71,  
c. 63 (Can.)

but "designated land" does not include any land in Ontario that is, within the meaning of paragraph c of subsection 15 of section 66 of the *Income Tax Act* (Canada), "Canadian resource property", or an interest held in land solely as security for some indebtedness secured by the land;

- (c) "dispose", "disposed of", and expressions of like import when used with reference to designated land, mean a disposition which has or is deemed to have occurred with respect to designated land;
- (d) "disposition" includes,
  - (i) a sale or transfer, however effected, of any part of the beneficial interest in designated land,
  - (ii) the sale, transfer, or assignment of an option providing for the acquisition of designated land, or the transfer of designated land made to comply with the terms of any such option that has been exercised,
  - (iii) the entering into a lease or similar arrangement of any kind with respect to designated land where the term of the lease or arrangement, including any renewals or extensions thereof, may exceed ten years, and the sale, assignment or transfer of the rights under any such lease or arrangement exercisable by the lessee or in the case of an arrangement similar to a lease, by the person in a position similar to that of the lessee,
  - (iv) any change in the entitlement to, or any accretion to, the beneficial interest in designated land as a result of the death of any person,
  - (v) any change in the composition of, the membership of, or the persons beneficially interested in any organization, syndicate, association of persons, partnership, joint venture or corporation without share capital, 50 per cent or more of the assets of which consist of designated land, if the effect of such change is that control over the use of the designated land or the proceeds of its disposition or of a subsequent disposition is exercisable in fact by a different person or group of persons,

- (vi) the sale or transfer in any manner of the beneficial interest in, or the allotment and issue of, shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are shares in the capital stock of a corporation 50 per cent or more of the assets of which consist of designated land, or
- (vii) the amalgamation, merger, consolidation or any other like arrangement of any two or more corporations, 50 per cent or more of the assets of any one of which consist of designated land, that has the effect of making control over the use of the designated land or the proceeds of its disposition or of a subsequent disposition exercisable in fact, and whether directly or indirectly, by a different person or group of persons,

but for greater certainty "disposition" does not include any transfer of property for the purpose only of securing a debt or a loan, or any transfer by a creditor for the purpose only of returning property that had been used as security for a debt or a loan, or any transfer of property by virtue of which there is a change in the legal ownership of the property without any change in the beneficial ownership thereof;

- (e) "farming" includes tillage of the soil, the breeding, raising or grazing of live stock of all kinds, the raising of poultry and the production of poultry products, fur farming, dairy farming, fruit growing, the growing of food for human consumption or for the feeding of live stock, and the keeping of bees;
- (f) "farming corporation" means a corporation,
  - (i) every share of which that confers on the holder thereof the right to vote is, at the date of any disposition with respect to which the expression is being applied, owned either by the transferor making the disposition or by a member of his family, and
  - (ii) 95 per cent of the assets of which are "farming assets" within the meaning of section 17a of *The Succession Duty Act*;



(g) "member of the family" means grandparents, parents, uncles, aunts, the spouse, brothers, sisters, children, grandchildren, nephews, nieces, sons-in-law, daughters-in-law, mother-in-law or father-in-law of a person with respect to whom the expression is being applied;

(h) "Minister" means the Minister of Revenue;

(i) "municipality" includes a district, regional or metropolitan municipality, a local board, as defined in *The Municipal Affairs Act*, of any municipality, and an elementary or secondary school board or board of education having jurisdiction in territory without municipal organization;

(j) "net maintenance costs" means all costs, including interest payments and property taxes, incurred in connection with the maintenance of the designated land to which the expression is being applied, other than costs incurred in connection with the disposition of designated land, and after deducting any income howsoever earned by the transferor from the designated land, including income from his own use of the designated land or from the granting of any right or interest therein, but no deduction shall be made with respect to income earned from farming the designated land by a farmer who is carrying on farming thereon and whose chief source of income is from farming and who owns the designated land;

(k) "prescribed" means prescribed by regulation;

(l) "proceeds of disposition" means,

(i) the gross sale price or any other consideration given for the disposition of designated land or received by the transferor of designated land, the assumption, undertaking, extinguishment or release of any liability of the transferor or affecting designated land disposed of, and the value of any benefit of whatsoever kind conferred on the transferor or on some person at the direction of the transferor as part of the arrangement relating to the disposition of designated land,

(ii) where designated land is transferred to comply with the terms of an option that provides for the acquisition of the designated land and that has been exercised, the value




of the consideration given for the granting of the option, plus the value of the cost provided for in the option of acquiring the designated land upon the exercise of the option, or

(iii) an amount equal to the fair market value of the designated land disposed of where the disposition is,

(A) by a transferor to a person or persons with whom the transferor is not dealing at arm's length at the time of the disposition,

(B) to a corporation in consideration of the allotment and issue of its shares,

(C) to an organization, syndicate, association of persons, partnership, joint venture or corporation without share capital in consideration of the admission to membership therein of any person, or

(D) by way of gift, 

but no proceeds of disposition arise on a disposition under the last will and testament of any person or on the intestacy of any person;

(m) "regulation" means a regulation made under this Act;

(n) "tax" unless expressly otherwise restricted, means the taxes imposed by this Act and the interest payable thereon;

(o) "taxable value" when used in relation to designated land means the amount by which the proceeds of disposition of designated land exceed the adjusted value of that designated land at the time of its disposition, and the taxable value of designated land shall be computed separately for each disposition of designated land;

 (p) "transferor" means,

(i) except as provided in subclause ii, iii or iv, the person or persons who make or

effect any disposition with respect to designated land with respect to which the expression "transferor" is being applied,

- (ii) in the case of the disposition of any beneficial interest in designated land held in trust, the person or persons who is or are, immediately prior to the making of such disposition, entitled under the trust to have the designated land or the proceeds of its sale held for his or their benefit, or if no such person can be identified, every person who is a beneficiary under a trust extending to designated land the beneficial interest in which is disposed of,
- (iii) in the case of a disposition described in subclause iv of clause *d*, the person or persons who is or are, immediately after the disposition, beneficially interested in the designated land with respect to which such disposition has occurred, or
- (iv) in the case of a disposition described in subclause v, vi or vii of clause *d*, the person or persons who is or are, immediately prior to the occurrence of such disposition, beneficially interested in the designated land with respect to which such disposition has occurred,

and every disposition of or with respect to designated land shall be deemed to be made by the person or persons by this clause defined to be a "transferor" with respect to the disposition;

(*q*) "Treasurer" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs.

Idem  
1970-71,  
c. 63 (Can.)

(2) Persons who, for the purposes of the *Income Tax Act* (Canada), would not be considered as dealing at arm's length shall not be considered to deal at arm's length for the purposes of this Act.

Idem

(3) For the purpose of this Act, "disposition" includes any arrangement or ordering in the nature of a disposition, whether by one transaction or a number of transactions effected for the purpose, that in any manner effectively changes the identity of the persons who are entitled in fact or in law to control or derive a profit from designated land or its disposition.

(4) For greater certainty, it is declared that where a disposition described in subclause v, vi or vii of clause *d* of subsection 1 occurs, it is deemed to be a disposition of or with respect to any designated land referred to in that one of the said subclauses that describes the disposition that has occurred. Idem

(5) For the purpose of this Act, "control" means control by another corporation, individual or trust that is in fact exercising effective control either directly or indirectly and either through the holding of shares of the corporation or of any other corporation or through the holding of a significant portion of any class of shares of the corporation or of the outstanding debt of the corporation or of any shareholder or member of the corporation, or by any other means whether of a like or different nature. Control defined

(6) Where designated land is disposed of by a corporation, 50 per cent or more of the assets of which consist of designated land, to its shareholders as a part of the winding up or dissolution of the corporation, the adjusted value of the designated land on the first subsequent disposition of it by such shareholders shall be computed as though the corporation, whether or not then in existence, and such shareholders were the same person. Distribution on winding up of corporation

(7) Where, on the disposition of any designated land, the adjusted value applicable to the designated land disposed of is determinable or ascertainable by reference to a larger amount of designated land of which that being disposed of is only a part, the adjusted value applicable to the designated land being disposed of shall be apportioned in such reasonable manner as will reflect the proportional value that the designated land disposed of is to the value of the larger amount of designated land. Apportionment

(8) For the purpose of subclause iv of clause *a* of subsection 1, where the number of months (excluding any period of time prior to the 9th day of April, 1974) during which the transferor owned the designated land prior to his disposition of it exceeds the largest number of such months that is exactly divisible by twelve, Idem

(a) sub-subclause A of the said subclause iv applies to such excess number of months as though the number ten appearing in sub-subclause A were that number that is in the same ratio to ten as the number of such excess months is to twelve; and

(b) paragraph 1 of sub-subclause B of the said subclause iv applies to include net maintenance costs incurred



by the transferor during such excess number of months.

Applica-  
tion of  
Act to  
certain  
disposi-  
tions

(9) For the purposes of clause *a*, *l* or *o* of subsection 1, or of subsection 8, where after the 9th day of April, 1974, a disposition described in subclause *v*, *vi* or *vii* of clause *d* of subsection 1 occurs of or with respect to designated land, the person or persons who is or are, immediately prior to the occurrence of such disposition, beneficially interested in the designated land with respect to which such disposition has occurred, shall be deemed to have disposed of it for proceeds of disposition equal to the amount of the fair market value of the designated land at the time of such disposition, and the person or persons who is or are, immediately following the occurrence of such disposition, beneficially interested in the designated land with respect to which such disposition has occurred, shall be deemed to have acquired the designated land for an amount equal to the amount of its fair market value at the time of such disposition, and for the purpose of determining the adjusted value of the designated land on the occurrence of the next subsequent disposition of it, subsection 8 and subclauses *iii*, *iv* and, where applicable, *v* of clause *a* of subsection 1 apply only to the period ending at the time of the next subsequent disposition of it and commencing at the time when the transferor making such next subsequent disposition was last deemed to have acquired the designated land.

Tax on  
designated  
land

2.—(1) Subject to section 4, where, after the 9th day of April, 1974, any disposition of designated land occurs, there shall be imposed and levied, for the uses of Her Majesty in right of Ontario, upon the designated land with respect to which such disposition occurs a tax computed at the rate of 50 per cent of the taxable value of designated land with respect to which such disposition occurs.

Idem

(2) Where there is a disposition within the meaning of subclause *vi* or *vii* of clause *d* of subsection 1 of section 1 of any designated land and the result of the disposition is that control of the corporation beneficially interested in the designated land is exercisable by a person or a group of persons different from those by whom control of the corporation was exercisable before the disposition, there shall be imposed and levied, for the uses of Her Majesty in right of Ontario, upon the designated land a tax, in addition to the tax imposed by subsection 1, calculated on the proceeds of disposition and computed at the rate of 20 per cent of the proceeds of disposition where the corporation beneficially interested in the designated land is, immediately after the disposition



has occurred, a non-resident corporation as defined in The Land Transfer Tax Act, 1974.

1974, c. 8

(3) The tax is payable by the transferor of any designated land disposed of by him and shall be paid at the time of the disposition of the designated land, and if not then paid, the tax bears interest at the rate of 9 per cent per annum until a different rate is prescribed. Payment of tax

(4) The tax is payable to the Treasurer and shall be remitted to the Minister by the person responsible for its payment. Idem

**3.** — (1) An administrator, executor, trustee or person acting in a fiduciary capacity for the transferor of designated land that is disposed of is not, as such, personally liable for the tax, but no person in Ontario shall pay, deliver, assign or transfer to or for the benefit of the transferor or of any person at the direction of the transferor any money or property coming into his hands as administrator, executor, trustee or person acting in a fiduciary capacity and by reason of the disposition of designated land without deducting therefrom or collecting an amount sufficient to pay the tax on the designated land disposed of. Trustees not personally liable

(2) Every such administrator, executor, trustee or person acting in a fiduciary capacity for the transferor who, knowing that tax is payable, makes or permits any payment, delivery, assignment or transfer referred to in subsection 1 without deducting or collecting an amount sufficient to secure the tax is guilty of an offence and on summary conviction is liable to pay to the Treasurer as a penalty an amount equal to 150 per cent of the amount of such tax. Penalty

(3) An administrator, executor, trustee or person acting in a fiduciary capacity for the transferor who has deducted or collected any money on account of the tax shall remit it to the Minister and is deemed to be a person who has received money for the Crown or for which he is accountable to the Crown within the meaning of *The Financial Administration Act*. Tax held by trustee

R.S.O. 1970,  
c. 166

**4.** No designated land is liable to the tax imposed by subsection 1 of section 2, Exemptions

(a) when the designated land is disposed of by, or by way of gift to, an organization that is, at the time of the disposition, a "registered Canadian charitable organization" within the meaning of paragraph c of subsection 8 of section 110 of the *Income Tax Act* (Canada) and is not a trust 1970-71,  
c. 63 (Can.)

exempt from tax under Part I of that Act by paragraph *f* or *h* of subsection 1 of section 149 of that Act;

- (b) when the designated land is disposed of by a municipality;
- (c) when the designated land is disposed of by a corporation, 50 per cent or more of the assets of which consist of designated land, to its shareholders as part of the winding up or dissolution of the corporation;
- (d) when the designated land disposed of is, at the time of its disposition, predominantly used as a tourist resort of a class, kind or designation prescribed by the Minister by regulation, or for commercial or industrial purposes, other than the rental of apartment suites or residential accommodation for use as the principal residence of the lessee, and if the designated land so disposed of contains buildings, structures or other capital improvements, excluding any costs or value attributable to subdividing and servicing the designated land, that have a value, at the time of the disposition, equal to 40 per cent or more of the proceeds of disposition of the designated land;
- (e) when the designated land disposed of is the principal residence of the transferor ordinarily inhabited by him or by him and his spouse, children or other dependants, together with land subjacent to the principal residence and land immediately contiguous to such subjacent land to the extent that such subjacent land and the immediately contiguous land do not exceed ten acres, but where only part of the designated land disposed of is ordinarily inhabited by the transferor or by him and his spouse, children or other dependants as his principal residence, the exemption conferred by this clause applies only to the proportion of the taxable value on such disposition that is in the same ratio to the whole of such taxable value as that part of any building that is ordinarily inhabited by the transferor or by him and his spouse, children or other dependants as his principal residence is of the whole of the building or buildings included in the designated land so disposed of;
- (f) when the designated land disposed of is not designated land described in clause *e* or is not immediately

contiguous thereto, and is used by the transferor or by members of his family for his or their personal recreation and enjoyment and is his principal recreational property, but this clause does not apply to any part of such designated land so disposed of in excess of twenty acres or where the disposition is to a non-resident person as defined in *The Land Transfer Tax Act, 1974*; <sup>1974, c. 8</sup>

(g) when the designated land disposed of includes a building or structure,

- (i) that the transferor has constructed or caused to be constructed, or
- (ii) that the transferor has renovated or caused to be renovated at a cost of not less than 20 per cent of,

(A) where the designated land was acquired by him after the 9th day of April, 1974, the cost to him of his acquisition of the designated land or the fair market value of the designated land at the time of its acquisition by the transferor if such fair market value is greater than the cost of acquisition, or

(B) where the designated land was acquired by the transferor on or before the 9th day of April, 1974, its fair market value ascertained as at the 9th day of April, 1974,

and that has a value at the time of the disposition of the designated land of not less than 40 per cent of the total proceeds of disposition of the designated land;

(h) when the designated land disposed of is, at the time of its disposition, used by the transferor, by members of the family of the transferor, by a farming corporation, or by the transferor and members of his family in farming, and the disposition of such designated land is to a member or members of the family of the transferor or to a farming corporation for the purpose of enabling the person to whom the disposition is made to carry on farming on the designated land;

(i) when the designated land is taken under statutory authority or is sold to a person by whom notice of an intention to take it under statutory authority was given; or



- (j) when the designated land is disposed of to Her Majesty in right of Ontario, a Crown agency within the meaning of *The Crown Agency Act*, a municipality, Ontario Hydro, Her Majesty in right of Canada, or to an agent of Her Majesty in right of Canada.

Special  
lien  
conferred

5.—(1) Every tax imposed upon designated land by this Act is, until paid, a special lien in favour of Her Majesty in right of Ontario upon the designated land and has complete priority over every claim, privilege, lien, encumbrance, right, title or interest of any person that arose or came into existence as part of or subsequent to the disposition of the designated land as a result of which tax was imposed on the designated land, and such special lien has priority over every execution in the hands of any sheriff or other officer that affects the designated land, whether the designated land was subject to the execution before or after the disposition of the designated land.

Where  
no lien  
attaches

(2) The special lien conferred by this Act does not attach to any designated land disposed of where the Minister has given his certificate that no lien is claimed with respect to the designated land, but the giving of the certificate does not destroy the special lien for tax resulting from any disposition of designated land occurring after the date as of which the certificate is given, and the giving of the certificate does not impair or relieve the transferor from his responsibility to pay any tax imposed by this Act.

Idem

(3) Where designated land is disposed of and, in order to recognize or give effect to the disposition, it is necessary to register upon the title to the designated land disposed of an instrument or writing under the registry system or land titles system, the special lien conferred by this Act does not attach to the designated land in respect of such disposition if there is attached to or made part of such instrument or writing, at the time it is tendered to a land registrar for registration, the affidavit of the transferor, or of some individual authorized in writing by the transferor to make such affidavit, stating that the disposition of designated land evidenced in the instrument or writing attached to such affidavit or of which the affidavit is a part is a disposition described in a clause and, where applicable, a subclause (which clause and subclause shall be expressly named in the affidavit) of section 4 of this Act, but the making of such affidavit does not impair or relieve the transferor from his responsibility to pay any tax imposed by this Act.

Notice of  
intended  
sale

(4) Before the issue of a warrant under subsection 5, the Minister shall send by mail or by registered mail, or deliver by personal service, a notice to all persons who have an



interest, encumbrance or charge registered under the land titles system or the registry system against the designated land for the sale of which the warrant is to be issued that he intends to have the designated land that is subject to the special lien conferred by this Act sold pursuant to subsection 5, and such notice shall be given not less than thirty days or more than sixty days before the issue of the warrant, and shall be sent, in the case of a notice sent by mail, to the latest known address of each person to whom notice is to be given and to such other address as, in the opinion of the Minister, may be more likely to bring the notice to the person's attention.

(5) Subject to subsection 4, the Minister may, by his warrant directed to the sheriff of the county, district or judicial district in which is situate any designated land that is subject to the special lien conferred by this Act, require the sheriff to sell the designated land within six months or such longer period as is stated in the warrant, and the sheriff, upon receiving the warrant, shall proceed within the period specified to sell the land in the same manner as for a sale under a writ of execution issued out of the Supreme Court, and any person purchasing from the sheriff at such a sale shall take good title to the designated land free and clear of all encumbrances and claims of any kind of all persons whatsoever that do not have priority over the special lien but subject to all the rights and encumbrances of persons who have an interest in the designated land that have priority over the special lien. Recovery of lien by sale.

(6) The proceeds of sale received by the sheriff from a sale under a warrant authorized by subsection 5 shall be applied first to pay the costs and expenses of the sheriff in conducting the sale and next in payment of the amount of tax that was a special lien on the designated land conferred by this Act, and any surplus thereafter remaining shall be paid, in order of their priorities, to those whose rights in the designated land were subject to the special lien, and, if the order of those priorities cannot be established by the sheriff, shall be paid into court to be dealt with as the court shall direct. Idem

(7) At any time prior to a sale authorized by subsection 5, any person interested in the designated land affected by the special lien conferred by this Act may pay to the Minister a sum sufficient to discharge the special lien, and if the special lien is discharged by some person having an encumbrance against the designated land, the amount accepted by the Minister may be added to that person's encumbrance and shall, for all purposes and in every court, thereafter be treated as part of the encumbrance and shall bear interest at the rate provided for in the encumbrance and shall be collectable in the same way as the encumbrance is enforceable. Right to discharge lien

**Waiver  
of lien**

(8) Upon such conditions as he may impose, the Minister may abandon, postpone, release or waive with respect to all or any part of any designated land any special lien conferred by this Act.

**Avoidance**

6. Where the result of one or more sales, exchanges, declarations of trust, or other transactions of any kind whatever is that a transferor has disposed of property under circumstances such that he may reasonably be considered to have artificially or unduly reduced the amount of the taxable value of designated land that he has disposed of, the taxable value shall be computed as if such reduction had not occurred.

**Refund**

7. Where a person has paid an amount under this Act as tax that is not payable as tax under this Act, the Minister may, upon receipt of satisfactory evidence that the amount was wrongly paid, authorize the Treasurer to refund such amount or any part thereof, but no refund shall be made unless it is applied for within three years after the date of the payment of any amount that is alleged not to have been payable as tax under this Act.

**Assessment**

8.—(1) Where any person responsible for the payment of tax fails to pay it as required under this Act, the Minister may make an assessment of the tax for which such person is responsible and which has not been paid.

**Notice of  
assessment**

(2) Where the Minister has made an assessment under subsection 1, he shall send by mail or by registered mail or deliver by personal service a notice of assessment to the person so assessed, and the amount of the assessment shall be remitted to the Minister by the person so assessed within thirty days from the date of mailing or delivery of the notice of assessment.

**Idem**

(3) Where the Minister has made an assessment under subsection 1, the notice of assessment may provide that the amount assessed is payable forthwith.

**Assessment  
from time  
to time**

(4) The Minister may, at any time he considers reasonable, assess or reassess any tax payable by any person under this Act.

**Assessment  
on inspection**

(5) Where it appears from an inspection, audit or examination of the books of account, records or documents of any person that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate the tax payable in such manner and form and by such procedure as the Minister considers adequate and expedient, and the Minister shall assess the amount of the tax.



(6) The Minister shall send by mail or by registered mail or deliver by personal service a notice of the assessment made under subsection 4 or 5 to the person so assessed at his latest known address, and the notice may provide that the amount assessed is payable forthwith. Notice of assessment under subs. 4 or 5

(7) Liability for tax is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made. Liability to tax not affected

(8) The Minister is not bound by any information delivered by or on behalf of any person responsible for the payment of the tax and may, notwithstanding any information that has been delivered or if no information has been delivered, assess the tax payable under this Act. Minister not bound by information

(9) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. Assessment valid and binding

(10) The amount of any assessment is payable within the time required by the notice of assessment whether or not an objection or appeal from the assessment is made or taken. Idem

9.—(1) Where a person objects to an assessment made under section 8, he may, within ninety days after the day of mailing or delivery by personal service of the notice of assessment, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. Notice of objection

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. Service

(3) Upon receipt of a notice of objection, the Minister shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, and he shall thereupon notify the person who has made the objection of his action by registered mail. Reconsideration

10.—(1) After the Minister has given the notification required by subsection 3 of section 9, a person who has served notice of objection under section 9 may appeal to the Supreme Court to have the assessment vacated or varied or reassessed, but no appeal under this section shall be instituted after the expiration of ninety days from the day on which notice has been mailed to such person under Appeal

subsection 3 of section 9, and an appeal under this section shall not be made to the Divisional Court.

Appeal, how  
instituted

(2) An appeal to the Supreme Court shall be instituted by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or with the Local Registrar of the Supreme Court for the county, district or judicial district in which is situate the designated land the tax imposed on which is under appeal.

Service

(3) A notice of appeal shall be served on the Minister by being sent by registered mail addressed to the Minister.

Contents of  
notice of  
appeal

(4) The person appealing shall set out in his notice of appeal a statement of the allegations of fact and the statutory provisions and reasons that he intends to submit in support of his appeal.

Reply to  
notice of  
appeal

(5) After the service on him of a notice of appeal under this section, the Minister shall with all due despatch serve on the person appealing and file in the Supreme Court where the notice of appeal was filed a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as he considers relevant.

Matter  
deemed  
action

(6) Upon the filing in the Supreme Court of the material referred to in subsection 5, the matter shall be deemed to be an action in the court, and the practice and procedure of the court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter that is deemed to be an action under this subsection, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court.

Disposition  
of appeal

(7) The court may dispose of an appeal by allowing it, by dismissing it, or by allowing it in part and directing the Minister to vacate the assessment, vary the assessment or reconsider the assessment and reassess as indicated by the judgment of the court.

Idem

(8) In delivering judgment disposing of an appeal, the court may order payment or refund of tax by the appellant or by the Treasurer, as the case may be, and may make such order as to cost as is considered proper.

Irregu-  
larities

(9) No assessment shall be vacated or varied on appeal by reason only of an irregularity, informality, omission or



error on the part of any person in the observance of any directory provision of this Act.

(10) The time within which a notice of objection under subsection 1 of section 9 or a notice of appeal under subsection 1 of this section is to be served may be extended by the Minister if application for extension is made before expiration of the time for service of the notice of objection or notice of appeal, as the case may be. Extension of time

11. Any payment to the Treasurer under this Act, other than a payment of penalties or fines imposed for offences under this Act, shall first be applied to any interest payable on any tax imposed by this Act. Payment applied against interest

12.—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises where any business is carried on or any property is kept or anything is done in connection with any business or where any books or records are or should be kept, and may, Investigations

(a) audit or examine the books, records, accounts, vouchers, letters, telegrams, or other documents that relate or may relate to any disposition of designated land or to the amount of tax payable under this Act;

(b) examine any designated land disposed of or any property the value of which formed or may have formed part of the adjusted value or proceeds of disposition referable to any disposition of designated land, or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of any information that was or should have been furnished to the Minister or the amount of any tax payable under this Act;

(c) require any transferor or any person to whom a disposition of designated land has been or may have been made or, if such transferor or person is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof or any other person on the premises of such transferor or person to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration, and for that purpose require such person to attend at the premises with him; and

- (d) if during the course of an audit or examination it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

Idem

(2) The Minister may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any transferor, or if such transferor is a partnership or corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof,

- (a) any information concerning designated land or a disposition of designated land that is believed to have occurred; or
- (b) production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein.

Idem

(3) The Minister may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation holding any amount for or paying or liable to pay any amount to a transferor or to any person to whom a disposition of designated land has been or may have been made production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents within such reasonable time as is stipulated therein.

Idem

(4) The Minister may, for any purpose related to the administration or enforcement of this Act, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing an officer of the Ministry of Revenue, together with such members of the Ontario Provincial Police Force or other peace officers as he calls upon to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

Documents  
to prove  
tax  
liability

(5) The Minister may, by registered letter or by a demand served personally, require the production under oath or

otherwise by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer for the purpose of determining what tax, if any, is imposed by this Act on designated land and what person is responsible for its payment, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand.

(6) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may make or cause to be made one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way. Copies

(7) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do or shall prevent or attempt to prevent any person doing any such thing. Compliance

(8) Notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do. Idem

(9) Declarations or affidavits in connection with statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefor. Administration of oaths

**13.**—(1) Upon default of payment of any amount assessed under section 8, Recovery of tax

(a) the Minister may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred and shall be tried without a jury; and

(b) the Minister may issue a warrant directed to the sheriff of any county, district or judicial district in which any property of a person liable to make a



payment or remittance under this Act is located or situated for the amount of the tax owing by him, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

Compliance  
proved by  
affidavit

(2) For the purpose of any proceeding or prosecution taken or instituted under this Act, the facts necessary to establish compliance on the part of the Minister with this Act as well as the failure of any person to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue.

Remedies to  
recover tax

(3) The use of any of the remedies provided by this section does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any tax are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or at law in favour of Her Majesty in right of Ontario.

Garnish-  
ment

**14.**—(1) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment or remittance under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act.

Idem

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Liability  
of debtor

(3) Every person who has discharged any liability to a person liable to make a payment or remittance under this Act without complying with the requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is the lesser.

Service of  
garnishee

(4) Where a person who is or is about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carries on business under



a name or style other than his own name, the registered or other letter under subsection 1 may be addressed to the name or style under which he carries on business and in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

(5) Where the persons who are or are about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carry on business in partnership, the registered or other letter under subsection 1 may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

(6) Subject to the provisions of *The Wages Act*, where the Minister has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the Minister in the registered letter or letter served personally.

Garnishment  
of wages  
R.S.O. 1970,  
c. 405

15.—(1) Every person who recklessly or knowingly makes an affidavit provided for in subsection 3 of section 5 that is false in some material particular is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 plus an amount that is not less than the tax imposed on the designated land by subsection 1 of section 2, as determined under subsection 3, and resulting from the disposition with respect to which the affidavit relates.

Penalty  
for false  
affidavit

(2) Every person who is required to remit to the Minister the tax imposed by this Act and who fails to remit the tax is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and an additional amount of not less than the tax, as determined under subsection 3, that should have been remitted.

Penalty  
for not  
remitting  
tax

(3) The Minister shall determine the amount of the tax referred to in subsection 1 or 2 from such information as is available to him, and shall issue a certificate as to the amount, but except where the Minister considers that there has been deliberate evasion of this Act, he shall not take into account a period of more than three years in determining the amount of tax referred to in the certificate.

Certificate  
of tax  
avoided

Idem

(4) In any prosecution under subsection 1 or 2, a certificate that is signed or that purports to be signed by the Minister or Deputy Minister of Revenue and that states the amount of tax is *prima facie* evidence of the amount of tax referred to in subsection 1 or 2 and of the authority of the person giving or making the certificate without any proof of appointment or signature.

Information  
for more  
than one  
offence

(5) Any information in respect of an offence under this Act may be for one or more than one offence, and no information, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences.

Tax not  
affected

(6) Neither the application of any provision of this section nor the enforcement of any penalty under this Act suspends or affects any remedy for the recovery of any tax payable under this Act.

Offences

**16.**—(1) Every person who contravenes section 12 is guilty of an offence and on summary conviction is liable to a fine of \$25 for each day during which the default continues.

Idem

(2) Every person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is guilty of an offence and on summary conviction is liable for a first offence to a fine of not less than \$25 and not more than \$200, and for any subsequent offence to a fine of not less than \$100 and not more than \$1,000.

Idem

(3) Every person who has,

- (a) knowingly made, participated in, assented to or acquiesced in the making of false or deceptive statements required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of any record, document or thing;
- (c) wilfully, in any manner, evaded or attempted to evade compliance with this Act or payment of tax imposed by this Act; or
- (d) conspired with any person to commit any offence described in clause *a*, *b* or *c*,

is guilty of an offence and on summary conviction, in addition to any penalty otherwise provided by this Act, is

liable to a fine of not less than \$200 and not more than an amount equal to double the amount of the tax that should have been remitted or that was sought to be evaded, or to imprisonment for a term of not more than two years, or to both.

(4) Any officer, director or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in the commission of any act which is an offence under this Act for which the corporation would be liable for prosecution is guilty of an offence and on summary conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. <sup>Idem</sup>

**17.** An information in respect of an offence against this Act shall be laid within six years of the time when the matter of the information arose. <sup>Limitation</sup>

**18.—** (1) Except as authorized by this section, no person employed by the Government of Ontario shall, <sup>Communication of information</sup>

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act; or

(b) knowingly allow any person to inspect or to have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

(2) Notwithstanding any other Act, but subject to subsection 3, no person employed by the Government of Ontario shall be required, in connection with any legal proceedings, <sup>Officials not compellable as witnesses</sup>

(a) to give evidence relating to any information obtained by or on behalf of the Minister for the purposes of this Act; or

(b) to produce any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

(3) Subsections 1 and 2 do not apply in respect of,

<sup>Exceptions for legal proceedings</sup>

(a) criminal proceedings under any Act of the Parliament of Canada; or

(b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature, or



- (c) proceedings relating to the administration or enforcement of this Act or the collection or assessment of tax.

Exception  
for internal  
adminis-  
tration

(4) A person employed by the Government of Ontario may, in the course of his duties in connection with the administration or enforcement of this Act,

- (a) communicate or allow to be communicated to an official or authorized person employed by the Government of Ontario in the administration and enforcement of any laws relating to the raising of revenues for provincial purposes any information obtained by or on behalf of the Minister for the purposes of this Act; and
- (b) allow an official or authorized person employed by the Government of Ontario in the administration or enforcement of any laws relating to the raising of revenues for provincial purposes to inspect or have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

Exception  
for objection  
or appeals,  
etc.

(5) Notwithstanding any other provision of this Act, the Minister may permit a copy of any book, record, writing, return or other document obtained by him or on his behalf for the purposes of this Act to be given to,

- (a) the person from whom the book, record, writing, return or other document was obtained; or
- (b) any person,
- (i) for the purposes of any objection or appeal that has been or may be taken by that person under this Act arising out of any assessment of tax, interest or penalties under this Act in connection with which the book, record, writing, return or other document was obtained, or

- (ii) by whom any amount payable under this Act is payable or has been paid,

or the legal representative of any person mentioned in clause *a* or *b* or the agent of any such person authorized in writing in that behalf.

Exception  
for tax  
enforcement  
in other  
jurisdictions

(6) Notwithstanding any other provision of this Act, the Minister may permit information or a copy of any book,



record, writing, return or other document obtained by him or on his behalf for the purposes of this Act to be given to,

- (a) a minister of the Government of Canada or any officer or employee employed under a minister of the Government of Canada for the purposes of administration of any Act of the Parliament of Canada imposing any tax or duty; or
- (b) a minister of the government of any province of Canada or officer or employee employed under that minister, for the purposes of administering and enforcing an Act of the Legislature of that province imposing any tax or duty,

if the minister of the Government of Canada or the minister of the government of another province, as the case may be, is permitted to give to the Minister information or copies of any book, record, writing, return or other document obtained by or on behalf of the minister of the Government of Canada, or the minister of the government of that other province, as the case may be, in the administration or enforcement of that Act for the purposes of the administration of this Act.

**19.** Where it is established to the satisfaction of the Minister that, prior to the 10th day of April, 1974, there existed a written agreement providing for the disposition of designated land either,

- (a) at a definite price or consideration the amount or value of which is set out in the agreement and is not determinable or fixed by reference to any date or period of time after the 9th day of April, 1974; or
- (b) at a price or consideration the amount or value of which is determinable under the agreement by reference only to a valuation to be made as of a date not later than the 9th day of April, 1974,

no tax is payable under this Act by the transferor with respect to such disposition of designated land.

**20.—(1)** In this section, "investment property" means designated land that includes buildings that are (except for any part thereof ordinarily inhabited by the owner thereof as his principal residence) predominantly rented to be ordinarily inhabited by the tenant or occupant as his

principal residence, and that have a value of not less than 40 per cent of the fair market value of the designated land, including such buildings.

Invest-  
ment  
property  
reduction

(2) Where, after the 9th day of April, 1977, designated land that is an investment property is disposed of and, during the three years immediately preceding such disposition, no other disposition of or with respect to that designated land has occurred and the designated land has, during the three years immediately preceding such disposition, been an investment property of the transferor, the taxable value, computed as if this section was not applicable, of the investment property so disposed of shall be reduced by an amount equal to three-tenths of such taxable value plus one-tenth thereof for each full year (commencing on or after the 9th day of April, 1974) in excess of three years during which the investment property disposed of was an investment property owned by the transferor and during which no previous disposition of or with respect thereto occurred.

Liability  
for tax  
on  
subdivided  
land

**21.—**(1) Notwithstanding any other provision of this Act, where designated land is disposed of by a transferor who has, prior to the disposition and in accordance with the requirements of a subdivision agreement between a municipality and the transferor and enforceable against the transferor, subdivided and serviced the designated land disposed of by him, and where, prior to or as part of the disposition, the transferor has entered into an agreement under seal with the person (hereinafter in this section called the "agreeing person") to whom the designated land is disposed of, and that agreement contains a covenant by the agreeing person that he assumes the liability of the transferor for the tax imposed by subsection 1 of section 2 upon the designated land so disposed of and a covenant that the agreeing person will, within the nine months immediately following the disposition, commence construction of buildings on at least 50 per cent of the building sites or lots included in the designated land disposed of to him and will, within the eighteen months immediately following the disposition, commence construction of buildings on the remainder of the building sites or lots included in the designated land disposed of to him, the tax imposed by subsection 1 of section 2 with respect to the disposition to the agreeing person and for which he has covenanted to be liable is, subject to subsection 4, payable by the agreeing person immediately upon his failure to comply with the covenant to commence construction of buildings required by this subsection, and the tax is recoverable and collectable by the Minister in



the same manner and with all the rights and remedies provided by this Act as if the agreeing person were the transferor making such disposition, and where an agreement described in this subsection is made between the transferor and an agreeing person, the transferor disposing of designated land to the agreeing person is not liable for the payment of the tax imposed by subsection 1 of section 2 with respect to such disposition.

(2) The tax that an agreeing person is liable to pay under subsection 1 remains a special lien conferred by section 5 on the designated land disposed of, but the special lien shall not have priority over any mortgage or charge given by the agreeing person with respect to the designated land disposed of to him in accordance with subsection 1 that is given for the purpose of securing the advance of money borrowed for the purpose of constructing upon the designated land any building that the agreeing person has covenanted in accordance with subsection 1 to construct.

(3) Where, subject to subsection 4, the covenants required by subsection 1 to be contained in an agreement made by the agreeing person have been complied with, the tax imposed by subsection 1 of section 2 with respect to the disposition to the agreeing person and for which he covenanted to be liable is cancelled, but such cancellation does not affect in any way any liability of the agreeing person to pay tax on any disposition by him of designated land, including the designated land acquired by him under his agreement with the transferor made in accordance with subsection 1.

(4) Where the Minister is satisfied that special circumstances resulting in undue hardship for an agreeing person in complying with his covenant to commence construction of buildings in accordance with subsection 1 have occurred, he may extend any time referred to in subsection 1 within which an agreeing person is required to comply with a covenant to commence construction of buildings, and upon such extension being granted, an agreeing person's liability to pay tax shall not arise until the expiration of the extended time without the covenant having been complied with.

**22.** Notwithstanding any other provision of this Act, where a transferor who has not previously disposed of designated land exempt in whole or in part under this section disposes of designated land that was his principal residence for a period of five consecutive years prior to his ceasing

Tax to remain a special lien

Cancellation of tax

Extension of time

Exemption for disposition of former residence of person over age 65

ordinarily to inhabit the designated land as his principal residence, and where, at the time he ceased ordinarily to inhabit the designated land as his principal residence, the transferor was sixty-five years of age or older, and where, at the time of the disposition the transferor is ordinarily inhabiting as his principal residence premises that are not owned in whole or in part by him or his spouse or by both of them, the designated land so disposed of is exempt from the tax imposed by subsection 1 of section 2, to the extent that the designated land would have been exempt by virtue of clause *e* of section 4 had the transferor disposed of the designated land at the time he ceased ordinarily to inhabit it as his principal residence and had clause *e* of section 4 then been applicable to the disposition.

Regulations

**23.**—(1) The Minister may make regulations prescribing any form required by this Act or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain.

Idem

(2) The Lieutenant Governor in Council may make regulations,

- (a) exempting from tax any designated land or class of designated land or exempting from tax any designated land with respect to which any disposition or class of disposition occurs;
- (b) authorizing any person to grant, after an investigation of such matters as are specified, any exemption that may be given under clause *a*;
- (c) authorizing the refund of any tax and specifying the conditions upon which such refund may be made;
- (d) prescribing the evidence required to establish facts relevant to assessments under this Act;
- (e) requiring any class of persons to make information returns respecting any class of information required in connection with assessments under this Act;
- (f) requiring a person who is, by a regulation made under clause *e*, required to make an information return to supply a copy of the information return or of a prescribed portion thereof to the person or persons in respect of whose designated land the information return or portion thereof relates;



- (g) authorizing a designated officer or class of officers employed by the Government of Ontario to exercise powers or perform duties of the Minister under this Act;
- (h) prescribing any rate of interest that is to be prescribed;
- (i) providing for the payment of interest on any refund or on any payment of tax authorized by regulation, and prescribing the rate of such interest and the method by which it is to be calculated;
- (j) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (k) providing for relaxing the strictness of this Act relative to the incidence of tax hereunder in special circumstances where, without such relaxation, inconvenience or hardship might result or the development of designated land might be impeded;
- (l) that are considered necessary for the purpose of carrying into effect the provisions of this Act according to their intent and of supplying any deficiency therein.

(3) A regulation is, if it so provides, effective with reference <sup>Idem</sup> to a period before it was filed.

**24.** Upon receiving Royal Assent, this Act shall be deemed <sup>Commence-</sup> to have come into force on the 9th day of April, 1974 <sup>ment</sup> and to apply to every disposition made, tax imposed and everything that may be required to be done under this Act that is made, imposed or done after the 9th day of April, 1974.

**25.** This Act may be cited as *The Land Speculation* <sup>Short title</sup> *Tax Act, 1974.*





An Act to impose a Tax on Land in  
respect of certain speculative Transactions  
affecting the Control or Ownership of Land

---

*1st Reading*

April 9th, 1974

*2nd Reading*

May 6th, 1974

*3rd Reading*

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THE HON. A. K. MEEN  
Minister of Revenue

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*(Reprinted as amended by the  
Committee of the Whole House)*



## **BILL 25**

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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### **An Act to impose a Tax on Land in respect of certain speculative Transactions affecting the Control or Ownership of Land**

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THE HON. A. K. MEEN  
Minister of Revenue

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**An Act to impose a Tax on Land in respect of  
certain speculative Transactions affecting the  
Control or Ownership of Land**

**H**ER MAJESTY, by and with the advice and consent of  
the Legislative Assembly of the Province of Ontario,  
enacts as follows:

1.—(1) In this Act,

Interpre-  
tation

(a) "adjusted value" means, in the case of any particular disposition of designated land to which the expression is being applied, the aggregate of,

(i) where the designated land was acquired by the transferor after the 9th day of April, 1974,

(A) otherwise than as described in sub-clause B, C or D, the cost to the transferor of its acquisition,

(B) under the will or on the intestacy of a person dying after the 9th day of April, 1974, the fair market value of the designated land at the death of such person,

(C) the fair market value of the designated land at the time it was so acquired if it was so acquired,

1. by the transferor from a person or persons with whom the transferor was not dealing at arm's length at the time the designated land was so acquired by him,

2. by the transferor that is a corporation that so acquired the designated land in consideration of the allotment and issue of its shares,

3. by the transferor that is an organization, syndicate, association of persons, partnership, joint venture or corporation without share capital that so acquired the designated land in consideration of the admission to membership therein of any person, or

4. by the transferor by way of gift,

or

(D) as the result of a disposition described in clause *h* of section 4, the adjusted value applicable to the designated land on the first disposition of it after the 9th day of April, 1974, that was a disposition described in clause *h* of section 4 and made by a transferor of whose family the subsequent transferor is a member,

(ii) where the designated land was acquired by the transferor on or before the 9th day of April, 1974, the fair market value of the designated land ascertained as at the 9th day of April, 1974,

(iii) the cost of improvements made by the transferor to the designated land after the 9th day of April, 1974,

(iv) for each twelve-month period that does not commence earlier than the 9th day of April, 1974 during which the transferor owns the designated land prior to his disposition of it, the lesser of either,

(A) 10 per cent of the amount determined under either subclause i or ii, whichever is applicable, or

(B) the aggregate of,

1. the net maintenance costs incurred by the transferor after the 9th day of April, 1974 with respect to the designated land, and



2. the costs incurred by the transferor in connection with disposing of the designated land if it was acquired by him after the 9th day of April, 1974, or where it was acquired by him on or before that date, the proportion of the costs incurred by the transferor in connection with disposing of the designated land that is in the same ratio to the whole of such costs as the fair market value of the designated land at the 9th day of April, 1974 is of the proceeds of disposition of the designated land by the transferor,

and

- (v) in the case of a disposition of designated land used in farming and to which clause *h* of section 4 does not apply, an amount equal to compound interest at the rate of 10 per cent per annum calculated with annual rests upon the amount determined under subclause i or ii, whichever is applicable to the transferor, for the number of years preceding the disposition and not including any period of time prior to the 9th day of April, 1974 throughout which farming was carried on on the designated land by the transferor making the disposition to which clause *h* of section 4 does not apply, or by any previous transferor of whose family the transferor making the disposition to which clause *h* of section 4 does not apply was a member, or by members of the family of such previous transferor, or by a farming corporation to which a disposition by such previous transferor would be a disposition described in clause *h* of section 4;
- (b) "designated land" means all land situate in Ontario and every right, estate, interest, tenement or hereditament existing at law or in equity in, over, to, or affecting land or capable of being registered in any land registry office in Ontario, fixtures, and buildings or structures attached to land, whether or not owned by persons other than the owner of the freehold of the land to which they are attached,

1970-71,  
c. 63 (Can.)

but "designated land" does not include any land in Ontario that is, within the meaning of paragraph c of subsection 15 of section 66 of the *Income Tax Act* (Canada), "Canadian resource property", or an interest held in land solely as security for some indebtedness secured by the land;

- (c) "dispose", "disposed of", and expressions of like import when used with reference to designated land, mean a disposition which has or is deemed to have occurred with respect to designated land;
- (d) "disposition" includes,
  - (i) a sale or transfer, however effected, of any part of the beneficial interest in designated land,
  - (ii) the sale, transfer, or assignment of an option providing for the acquisition of designated land, or the transfer of designated land made to comply with the terms of any such option that has been exercised,
  - (iii) the entering into a lease or similar arrangement of any kind with respect to designated land where the term of the lease or arrangement, including any renewals or extensions thereof, may exceed ten years, and the sale, assignment or transfer of the rights under any such lease or arrangement exercisable by the lessee or in the case of an arrangement similar to a lease, by the person in a position similar to that of the lessee,
  - (iv) any change in the entitlement to, or any accretion to, the beneficial interest in designated land as a result of the death of any person,
  - (v) any change in the composition of, the membership of, or the persons beneficially interested in any organization, syndicate, association of persons, partnership, joint venture or corporation without share capital, 50 per cent or more of the assets of which consist of designated land, if the effect of such change is that control over the use of the designated land or the proceeds of its disposition or of a subsequent disposition is exercisable in fact by a different person or group of persons,

(vi) the sale or transfer in any manner of the beneficial interest in, or the allotment and issue of, shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are shares in the capital stock of a corporation 50 per cent or more of the assets of which consist of designated land, or

(vii) the amalgamation, merger, consolidation or any other like arrangement of any two or more corporations, 50 per cent or more of the assets of any one of which consist of designated land, that has the effect of making control over the use of the designated land or the proceeds of its disposition or of a subsequent disposition exercisable in fact, and whether directly or indirectly, by a different person or group of persons,

but for greater certainty "disposition" does not include any transfer of property for the purpose only of securing a debt or a loan, or any transfer by a creditor for the purpose only of returning property that had been used as security for a debt or a loan, or any transfer of property by virtue of which there is a change in the legal ownership of the property without any change in the beneficial ownership thereof;

(e) "farming" includes tillage of the soil, the breeding, raising or grazing of live stock of all kinds, the raising of poultry and the production of poultry products, fur farming, dairy farming, fruit growing, the growing of food for human consumption or for the feeding of live stock, and the keeping of bees;

(f) "farming corporation" means a corporation,

(i) every share of which that confers on the holder thereof the right to vote is, at the date of any disposition with respect to which the expression is being applied, owned either by the transferor making the disposition or by a member of his family, and

(ii) 95 per cent of the assets of which are "farming assets" within the meaning of section 17a of *The Succession Duty Act*;



(g) "member of the family" means grandparents, parents, uncles, aunts, the spouse, brothers, sisters, children, grandchildren, nephews, nieces, sons-in-law, daughters-in-law, mother-in-law or father-in-law of a person with respect to whom the expression is being applied;

(h) "Minister" means the Minister of Revenue;

(i) "municipality" includes a district, regional or metropolitan municipality, a local board, as defined in *The Municipal Affairs Act*, of any municipality, and an elementary or secondary school board or board of education having jurisdiction in territory without municipal organization;

R.S.O. 1970,  
c. 118

(j) "net maintenance costs" means all costs, including interest payments and property taxes, incurred in connection with the maintenance of the designated land to which the expression is being applied, other than costs incurred in connection with the disposition of designated land, and after deducting any income howsoever earned by the transferor from the designated land, including income from his own use of the designated land or from the granting of any right or interest therein, but no deduction shall be made with respect to income earned from farming the designated land by a farmer who is carrying on farming thereon and whose chief source of income is from farming and who owns the designated land;

(k) "prescribed" means prescribed by regulation;

(l) "proceeds of disposition" means,

(i) the gross sale price or any other consideration given for the disposition of designated land or received by the transferor of designated land, the assumption, undertaking, extinguishment or release of any liability of the transferor or affecting designated land disposed of, and the value of any benefit of whatsoever kind conferred on the transferor or on some person at the direction of the transferor as part of the arrangement relating to the disposition of designated land,

(ii) where designated land is transferred to comply with the terms of an option that provides for the acquisition of the designated land and that has been exercised, the value



of the consideration given for the granting of the option, plus the value of the cost provided for in the option of acquiring the designated land upon the exercise of the option, or

(iii) an amount equal to the fair market value of the designated land disposed of where the disposition is,

(A) by a transferor to a person or persons with whom the transferor is not dealing at arm's length at the time of the disposition,

(B) to a corporation in consideration of the allotment and issue of its shares,

(C) to an organization, syndicate, association of persons, partnership, joint venture or corporation without share capital in consideration of the admission to membership therein of any person, or

(D) by way of gift,

but no proceeds of disposition arise on a disposition under the last will and testament of any person or on the intestacy of any person;

(m) "regulation" means a regulation made under this Act;

(n) "tax" unless expressly otherwise restricted, means the taxes imposed by this Act and the interest payable thereon;

(o) "taxable value" when used in relation to designated land means the amount by which the proceeds of disposition of designated land exceed the adjusted value of that designated land at the time of its disposition, and the taxable value of designated land shall be computed separately for each disposition of designated land;

(p) "transferor" means,

(i) except as provided in subclause ii, iii or iv, the person or persons who make or

effect any disposition with respect to designated land with respect to which the expression "transferor" is being applied,

- (ii) in the case of the disposition of any beneficial interest in designated land held in trust, the person or persons who is or are, immediately prior to the making of such disposition, entitled under the trust to have the designated land or the proceeds of its sale held for his or their benefit, or if no such person can be identified, every person who is a beneficiary under a trust extending to designated land the beneficial interest in which is disposed of,
- (iii) in the case of a disposition described in subclause iv of clause *d*, the person or persons who is or are, immediately after the disposition, beneficially interested in the designated land with respect to which such disposition has occurred, or
- (iv) in the case of a disposition described in subclause v, vi or vii of clause *d*, the person or persons who is or are, immediately prior to the occurrence of such disposition, beneficially interested in the designated land with respect to which such disposition has occurred,

and every disposition of or with respect to designated land shall be deemed to be made by the person or persons by this clause defined to be a "transferor" with respect to the disposition;

- (*q*) "Treasurer" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs.

Idem  
1970-71,  
c. 63 (Can.)

(2) Persons who, for the purposes of the *Income Tax Act* (Canada), would not be considered as dealing at arm's length shall not be considered to deal at arm's length for the purposes of this Act.

Idem

(3) For the purpose of this Act, "disposition" includes any arrangement or ordering in the nature of a disposition, whether by one transaction or a number of transactions effected for the purpose, that in any manner effectively changes the identity of the persons who are entitled in fact or in law to control or derive a profit from designated land or its disposition.

(4) For greater certainty, it is declared that where a disposition described in subclause v, vi or vii of clause *d* of subsection 1 occurs, it is deemed to be a disposition of or with respect to any designated land referred to in that one of the said subclauses that describes the disposition that has occurred. Idem

(5) For the purpose of this Act, "control" means control by another corporation, individual or trust that is in fact exercising effective control either directly or indirectly and either through the holding of shares of the corporation or of any other corporation or through the holding of a significant portion of any class of shares of the corporation or of the outstanding debt of the corporation or of any shareholder or member of the corporation, or by any other means whether of a like or different nature. Control defined

(6) Where designated land is disposed of by a corporation, 50 per cent or more of the assets of which consist of designated land, to its shareholders as a part of the winding up or dissolution of the corporation, the adjusted value of the designated land on the first subsequent disposition of it by such shareholders shall be computed as though the corporation, whether or not then in existence, and such shareholders were the same person. Distribution on winding up of corporation

(7) Where, on the disposition of any designated land, the adjusted value applicable to the designated land disposed of is determinable or ascertainable by reference to a larger amount of designated land of which that being disposed of is only a part, the adjusted value applicable to the designated land being disposed of shall be apportioned in such reasonable manner as will reflect the proportional value that the designated land disposed of is to the value of the larger amount of designated land. Apportionment

(8) For the purpose of subclause iv of clause *a* of subsection 1, where the number of months (excluding any period of time prior to the 9th day of April, 1974) during which the transferor owned the designated land prior to his disposition of it exceeds the largest number of such months that is exactly divisible by twelve, Idem

(a) sub-subclause A of the said subclause iv applies to such excess number of months as though the number ten appearing in sub-subclause A were that number that is in the same ratio to ten as the number of such excess months is to twelve; and

(b) paragraph 1 of sub-subclause B of the said subclause iv applies to include net maintenance costs incurred



by the transferor during such excess number of months.

Applica-  
tion of  
Act to  
certain  
disposi-  
tions

(9) For the purposes of clause *a*, *l* or *o* of subsection 1, or of subsection 8, where after the 9th day of April, 1974, a disposition described in subclause *v*, *vi* or *vii* of clause *d* of subsection 1 occurs of or with respect to designated land, the person or persons who is or are, immediately prior to the occurrence of such disposition, beneficially interested in the designated land with respect to which such disposition has occurred, shall be deemed to have disposed of it for proceeds of disposition equal to the amount of the fair market value of the designated land at the time of such disposition, and the person or persons who is or are, immediately following the occurrence of such disposition, beneficially interested in the designated land with respect to which such disposition has occurred, shall be deemed to have acquired the designated land for an amount equal to the amount of its fair market value at the time of such disposition, and for the purpose of determining the adjusted value of the designated land on the occurrence of the next subsequent disposition of it, subsection 8 and subclauses *iii*, *iv* and, where applicable, *v* of clause *a* of subsection 1 apply only to the period ending at the time of the next subsequent disposition of it and commencing at the time when the transferor making such next subsequent disposition was last deemed to have acquired the designated land.

Tax on  
designated  
land

2.—(1) Subject to section 4, where, after the 9th day of April, 1974, any disposition of designated land occurs, there shall be imposed and levied, for the uses of Her Majesty in right of Ontario, upon the designated land with respect to which such disposition occurs a tax computed at the rate of 50 per cent of the taxable value of designated land with respect to which such disposition occurs.

Idem

(2) Where there is a disposition within the meaning of subclause *vi* or *vii* of clause *d* of subsection 1 of section 1 of any designated land and the result of the disposition is that control of the corporation beneficially interested in the designated land is exercisable by a person or a group of persons different from those by whom control of the corporation was exercisable before the disposition, there shall be imposed and levied, for the uses of Her Majesty in right of Ontario, upon the designated land a tax, in addition to the tax imposed by subsection 1, calculated on the proceeds of disposition and computed at the rate of 20 per cent of the proceeds of disposition where the corporation beneficially interested in the designated land is, immediately after the disposition



has occurred, a non-resident corporation as defined in *The Land Transfer Tax Act, 1974*.

1974, c. 8

(3) The tax is payable by the transferor of any designated land disposed of by him and shall be paid at the time of the disposition of the designated land, and if not then paid, the tax bears interest at the rate of 9 per cent per annum until a different rate is prescribed. Payment of tax

(4) The tax is payable to the Treasurer and shall be remitted to the Minister by the person responsible for its payment. Idem

**3.**—(1) An administrator, executor, trustee or person acting in a fiduciary capacity for the transferor of designated land that is disposed of is not, as such, personally liable for the tax, but no person in Ontario shall pay, deliver, assign or transfer to or for the benefit of the transferor or of any person at the direction of the transferor any money or property coming into his hands as administrator, executor, trustee or person acting in a fiduciary capacity and by reason of the disposition of designated land without deducting therefrom or collecting an amount sufficient to pay the tax on the designated land disposed of. Trustees not personally liable

(2) Every such administrator, executor, trustee or person acting in a fiduciary capacity for the transferor who, knowing that tax is payable, makes or permits any payment, delivery, assignment or transfer referred to in subsection 1 without deducting or collecting an amount sufficient to secure the tax is guilty of an offence and on summary conviction is liable to pay to the Treasurer as a penalty an amount equal to 150 per cent of the amount of such tax. Penalty

(3) An administrator, executor, trustee or person acting in a fiduciary capacity for the transferor who has deducted or collected any money on account of the tax shall remit it to the Minister and is deemed to be a person who has received money for the Crown or for which he is accountable to the Crown within the meaning of *The Financial Administration Act*. Tax held by trustee  
R.S.O. 1970,  
c. 166

**4.** No designated land is liable to the tax imposed by subsection 1 of section 2, Exemptions

(a) when the designated land is disposed of by, or by way of gift to, an organization that is, at the time of the disposition, a "registered Canadian charitable organization" within the meaning of paragraph c of subsection 8 of section 110 of the *Income Tax Act* (Canada) and is not a trust

1970-71,  
c. 63 (Can.)

exempt from tax under Part I of that Act by paragraph *f* or *h* of subsection 1 of section 149 of that Act;

- (b) when the designated land is disposed of by a municipality;
- (c) when the designated land is disposed of by a corporation, 50 per cent or more of the assets of which consist of designated land, to its shareholders as part of the winding up or dissolution of the corporation;
- (d) when the designated land disposed of is, at the time of its disposition, predominantly used as a tourist resort of a class, kind or designation prescribed by the Minister by regulation, or for commercial or industrial purposes, other than the rental of apartment suites or residential accommodation for use as the principal residence of the lessee, and if the designated land so disposed of contains buildings, structures or other capital improvements, excluding any costs or value attributable to subdividing and servicing the designated land, that have a value, at the time of the disposition, equal to 40 per cent or more of the proceeds of disposition of the designated land;
- (e) when the designated land disposed of is the principal residence of the transferor ordinarily inhabited by him or by him and his spouse, children or other dependants, together with land subjacent to the principal residence and land immediately contiguous to such subjacent land to the extent that such subjacent land and the immediately contiguous land do not exceed ten acres, but where only part of the designated land disposed of is ordinarily inhabited by the transferor or by him and his spouse, children or other dependants as his principal residence, the exemption conferred by this clause applies only to the proportion of the taxable value on such disposition that is in the same ratio to the whole of such taxable value as that part of any building that is ordinarily inhabited by the transferor or by him and his spouse, children or other dependants as his principal residence is of the whole of the building or buildings included in the designated land so disposed of;
- (f) when the designated land disposed of is not designated land described in clause *e* or is not immediately

contiguous thereto, and is used by the transferor or by members of his family for his or their personal recreation and enjoyment and is his principal recreational property, but this clause does not apply to any part of such designated land so disposed of in excess of twenty acres or where the disposition is to a non-resident person as defined in *The Land Transfer Tax Act, 1974*; <sup>1974, c. 8</sup>

- (g) when the designated land disposed of includes a building or structure,
  - (i) that the transferor has constructed or caused to be constructed, or
  - (ii) that the transferor has renovated or caused to be renovated at a cost of not less than 20 per cent of,
    - (A) where the designated land was acquired by him after the 9th day of April, 1974, the cost to him of his acquisition of the designated land or the fair market value of the designated land at the time of its acquisition by the transferor if such fair market value is greater than the cost of acquisition, or
    - (B) where the designated land was acquired by the transferor on or before the 9th day of April, 1974, its fair market value ascertained as at the 9th day of April, 1974,

and that has a value at the time of the disposition of the designated land of not less than 40 per cent of the total proceeds of disposition of the designated land;

- (h) when the designated land disposed of is, at the time of its disposition, used by the transferor, by members of the family of the transferor, by a farming corporation, or by the transferor and members of his family in farming, and the disposition of such designated land is to a member or members of the family of the transferor or to a farming corporation for the purpose of enabling the person to whom the disposition is made to carry on farming on the designated land;
- (i) when the designated land is taken under statutory authority or is sold to a person by whom notice of an intention to take it under statutory authority was given; or



R.S.O. 1970,  
c. 100

- (j) when the designated land is disposed of to Her Majesty in right of Ontario, a Crown agency within the meaning of *The Crown Agency Act*, a municipality, Ontario Hydro, Her Majesty in right of Canada, or to an agent of Her Majesty in right of Canada.

Special  
lien  
conferred

5.—(1) Every tax imposed upon designated land by this Act is, until paid, a special lien in favour of Her Majesty in right of Ontario upon the designated land and has complete priority over every claim, privilege, lien, encumbrance, right, title or interest of any person that arose or came into existence as part of or subsequent to the disposition of the designated land as a result of which tax was imposed on the designated land, and such special lien has priority over every execution in the hands of any sheriff or other officer that affects the designated land, whether the designated land was subject to the execution before or after the disposition of the designated land.

Where  
no lien  
attaches

(2) The special lien conferred by this Act does not attach to any designated land disposed of where the Minister has given his certificate that no lien is claimed with respect to the designated land, but the giving of the certificate does not destroy the special lien for tax resulting from any disposition of designated land occurring after the date as of which the certificate is given, and the giving of the certificate does not impair or relieve the transferor from his responsibility to pay any tax imposed by this Act.

Idem

(3) Where designated land is disposed of and, in order to recognize or give effect to the disposition, it is necessary to register upon the title to the designated land disposed of an instrument or writing under the registry system or land titles system, the special lien conferred by this Act does not attach to the designated land in respect of such disposition if there is attached to or made part of such instrument or writing, at the time it is tendered to a land registrar for registration, the affidavit of the transferor, or of some individual authorized in writing by the transferor to make such affidavit, stating that the disposition of designated land evidenced in the instrument or writing attached to such affidavit or of which the affidavit is a part is a disposition described in a clause and, where applicable, a subclause (which clause and subclause shall be expressly named in the affidavit) of section 4 of this Act, but the making of such affidavit does not impair or relieve the transferor from his responsibility to pay any tax imposed by this Act.

Notice of  
intended  
sale

(4) Before the issue of a warrant under subsection 5, the Minister shall send by mail or by registered mail, or deliver by personal service, a notice to all persons who have an



interest, encumbrance or charge registered under the land titles system or the registry system against the designated land for the sale of which the warrant is to be issued that he intends to have the designated land that is subject to the special lien conferred by this Act sold pursuant to subsection 5, and such notice shall be given not less than thirty days or more than sixty days before the issue of the warrant, and shall be sent, in the case of a notice sent by mail, to the latest known address of each person to whom notice is to be given and to such other address as, in the opinion of the Minister, may be more likely to bring the notice to the person's attention.

(5) Subject to subsection 4, the Minister may, by his warrant directed to the sheriff of the county, district or judicial district in which is situate any designated land that is subject to the special lien conferred by this Act, require the sheriff to sell the designated land within six months or such longer period as is stated in the warrant, and the sheriff, upon receiving the warrant, shall proceed within the period specified to sell the land in the same manner as for a sale under a writ of execution issued out of the Supreme Court, and any person purchasing from the sheriff at such a sale shall take good title to the designated land free and clear of all encumbrances and claims of any kind of all persons whatsoever that do not have priority over the special lien but subject to all the rights and encumbrances of persons who have an interest in the designated land that have priority over the special lien. Recovery of lien by sale

(6) The proceeds of sale received by the sheriff from a sale under a warrant authorized by subsection 5 shall be applied first to pay the costs and expenses of the sheriff in conducting the sale and next in payment of the amount of tax that was a special lien on the designated land conferred by this Act, and any surplus thereafter remaining shall be paid, in order of their priorities, to those whose rights in the designated land were subject to the special lien, and, if the order of those priorities cannot be established by the sheriff, shall be paid into court to be dealt with as the court shall direct. Idem

(7) At any time prior to a sale authorized by subsection 5, any person interested in the designated land affected by the special lien conferred by this Act may pay to the Minister a sum sufficient to discharge the special lien, and if the special lien is discharged by some person having an encumbrance against the designated land, the amount accepted by the Minister may be added to that person's encumbrance and shall, for all purposes and in every court, thereafter be treated as part of the encumbrance and shall bear interest at the rate provided for in the encumbrance and shall be collectable in the same way as the encumbrance is enforceable. Right to discharge lien

Waiver  
of lien

(8) Upon such conditions as he may impose, the Minister may abandon, postpone, release or waive with respect to all or any part of any designated land any special lien conferred by this Act.

Avoidance

**6.** Where the result of one or more sales, exchanges, declarations of trust, or other transactions of any kind whatever is that a transferor has disposed of property under circumstances such that he may reasonably be considered to have artificially or unduly reduced the amount of the taxable value of designated land that he has disposed of, the taxable value shall be computed as if such reduction had not occurred.

Refund

**7.** Where a person has paid an amount under this Act as tax that is not payable as tax under this Act, the Minister may, upon receipt of satisfactory evidence that the amount was wrongly paid, authorize the Treasurer to refund such amount or any part thereof, but no refund shall be made unless it is applied for within three years after the date of the payment of any amount that is alleged not to have been payable as tax under this Act.

Assessment

**8.—(1)** Where any person responsible for the payment of tax fails to pay it as required under this Act, the Minister may make an assessment of the tax for which such person is responsible and which has not been paid.

Notice of  
assessment

(2) Where the Minister has made an assessment under subsection 1, he shall send by mail or by registered mail or deliver by personal service a notice of assessment to the person so assessed, and the amount of the assessment shall be remitted to the Minister by the person so assessed within thirty days from the date of mailing or delivery of the notice of assessment.

Idem

(3) Where the Minister has made an assessment under subsection 1, the notice of assessment may provide that the amount assessed is payable forthwith.

Assessment  
from time  
to time

(4) The Minister may, at any time he considers reasonable, assess or reassess any tax payable by any person under this Act.

Assessment  
on inspection

(5) Where it appears from an inspection, audit or examination of the books of account, records or documents of any person that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate the tax payable in such manner and form and by such procedure as the Minister considers adequate and expedient, and the Minister shall assess the amount of the tax.



(6) The Minister shall send by mail or by registered mail or deliver by personal service a notice of the assessment made under subsection 4 or 5 to the person so assessed at his latest known address, and the notice may provide that the amount assessed is payable forthwith. Notice of assessment under suba. 4 or 5

(7) Liability for tax is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made. Liability to tax not affected

(8) The Minister is not bound by any information delivered by or on behalf of any person responsible for the payment of the tax and may, notwithstanding any information that has been delivered or if no information has been delivered, assess the tax payable under this Act. Minister not bound by information

(9) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. Assessment valid and binding

(10) The amount of any assessment is payable within the time required by the notice of assessment whether or not an objection or appeal from the assessment is made or taken. Idem

9.—(1) Where a person objects to an assessment made under section 8, he may, within ninety days after the day of mailing or delivery by personal service of the notice of assessment, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. Notice of objection

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. Service

(3) Upon receipt of a notice of objection, the Minister shall with all due dispatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, and he shall thereupon notify the person who has made the objection of his action by registered mail. Reconsideration

10.—(1) After the Minister has given the notification required by subsection 3 of section 9, a person who has served notice of objection under section 9 may appeal to the Supreme Court to have the assessment vacated or varied or reassessed, but no appeal under this section shall be instituted after the expiration of ninety days from the day on which notice has been mailed to such person under Appeal

subsection 3 of section 9, and an appeal under this section shall not be made to the Divisional Court.

Appeal, how  
instituted

(2) An appeal to the Supreme Court shall be instituted by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or with the Local Registrar of the Supreme Court for the county, district or judicial district in which is situate the designated land the tax imposed on which is under appeal.

Service

(3) A notice of appeal shall be served on the Minister by being sent by registered mail addressed to the Minister.

Contents of  
notice of  
appeal

(4) The person appealing shall set out in his notice of appeal a statement of the allegations of fact and the statutory provisions and reasons that he intends to submit in support of his appeal.

Reply to  
notice of  
appeal

(5) After the service on him of a notice of appeal under this section, the Minister shall with all due despatch serve on the person appealing and file in the Supreme Court where the notice of appeal was filed a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as he considers relevant.

Matter  
deemed  
action

(6) Upon the filing in the Supreme Court of the material referred to in subsection 5, the matter shall be deemed to be an action in the court, and the practice and procedure of the court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter that is deemed to be an action under this subsection, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court.

Disposition  
of appeal

(7) The court may dispose of an appeal by allowing it, by dismissing it, or by allowing it in part and directing the Minister to vacate the assessment, vary the assessment or reconsider the assessment and reassess as indicated by the judgment of the court.

Idem

(8) In delivering judgment disposing of an appeal, the court may order payment or refund of tax by the appellant or by the Treasurer, as the case may be, and may make such order as to cost as is considered proper.

Irregu-  
larities

(9) No assessment shall be vacated or varied on appeal by reason only of an irregularity, informality, omission or



error on the part of any person in the observance of any directory provision of this Act.

(10) The time within which a notice of objection under subsection 1 of section 9 or a notice of appeal under subsection 1 of this section is to be served may be extended by the Minister if application for extension is made before expiration of the time for service of the notice of objection or notice of appeal, as the case may be. Extension of time

11. Any payment to the Treasurer under this Act, other than a payment of penalties or fines imposed for offences under this Act, shall first be applied to any interest payable on any tax imposed by this Act. Payment applied against interest

12.—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises where any business is carried on or any property is kept or anything is done in connection with any business or where any books or records are or should be kept, and may. Investigations

- (a) audit or examine the books, records, accounts, vouchers, letters, telegrams, or other documents that relate or may relate to any disposition of designated land or to the amount of tax payable under this Act;
- (b) examine any designated land disposed of or any property the value of which formed or may have formed part of the adjusted value or proceeds of disposition referable to any disposition of designated land, or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of any information that was or should have been furnished to the Minister or the amount of any tax payable under this Act;
- (c) require any transferor or any person to whom a disposition of designated land has been or may have been made or, if such transferor or person is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof or any other person on the premises of such transferor or person to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration, and for that purpose require such person to attend at the premises with him; and

- (d) if during the course of an audit or examination it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

Idem

(2) The Minister may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any transferor, or if such transferor is a partnership or corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof,

- (a) any information concerning designated land or a disposition of designated land that is believed to have occurred; or
- (b) production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein.

Idem

(3) The Minister may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation holding any amount for or paying or liable to pay any amount to a transferor or to any person to whom a disposition of designated land has been or may have been made production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents within such reasonable time as is stipulated therein.

Idem

(4) The Minister may, for any purpose related to the administration or enforcement of this Act, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing an officer of the Ministry of Revenue, together with such members of the Ontario Provincial Police Force or other peace officers as he calls upon to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

Documents  
to prove  
tax  
liability

(5) The Minister may, by registered letter or by a demand served personally, require the production under oath or

otherwise by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer for the purpose of determining what tax, if any, is imposed by this Act on designated land and what person is responsible for its payment, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand.

(6) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may make or cause to be made one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way. Copies

(7) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do or shall prevent or attempt to prevent any person doing any such thing. Compliance

(8) Notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do. Idem

(9) Declarations or affidavits in connection with statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefor. Administration of oaths

**13.**—(1) Upon default of payment of any amount assessed under section 8, Recovery of tax

(a) the Minister may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred and shall be tried without a jury; and

(b) the Minister may issue a warrant directed to the sheriff of any county, district or judicial district in which any property of a person liable to make a



payment or remittance under this Act is located or situated for the amount of the tax owing by him, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

Compliance  
proved by  
affidavit

(2) For the purpose of any proceeding or prosecution taken or instituted under this Act, the facts necessary to establish compliance on the part of the Minister with this Act as well as the failure of any person to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue.

Remedies to  
recover tax

(3) The use of any of the remedies provided by this section does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any tax are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or at law in favour of Her Majesty in right of Ontario.

Garnish-  
ment

**14.—**(1) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment or remittance under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act.

Idem

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Liability  
of debtor

(3) Every person who has discharged any liability to a person liable to make a payment or remittance under this Act without complying with the requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is the lesser.

Service of  
garnishee

(4) Where a person who is or is about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carries on business under



a name or style other than his own name, the registered or other letter under subsection 1 may be addressed to the name or style under which he carries on business and in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

(5) Where the persons who are or are about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carry on business in partnership, the registered or other letter under subsection 1 may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership. Idem

(6) Subject to the provisions of *The Wages Act*, where the Minister has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the Minister in the registered letter or letter served personally. Garnishment of wages R.S.O. 1970, c. 486

**15.—**(1) Every person who recklessly or knowingly makes an affidavit provided for in subsection 3 of section 5 that is false in some material particular is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 plus an amount that is not less than the tax imposed on the designated land by subsection 1 of section 2, as determined under subsection 3, and resulting from the disposition with respect to which the affidavit relates. Penalty for false affidavit

(2) Every person who is required to remit to the Minister the tax imposed by this Act and who fails to remit the tax is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and an additional amount of not less than the tax, as determined under subsection 3, that should have been remitted. Penalty for not remitting tax

(3) The Minister shall determine the amount of the tax referred to in subsection 1 or 2 from such information as is available to him, and shall issue a certificate as to the amount, but except where the Minister considers that there has been deliberate evasion of this Act, he shall not take into account a period of more than three years in determining the amount of tax referred to in the certificate. Certificate of tax avoided

**Idem** (4) In any prosecution under subsection 1 or 2, a certificate that is signed or that purports to be signed by the Minister or Deputy Minister of Revenue and that states the amount of tax is *prima facie* evidence of the amount of tax referred to in subsection 1 or 2 and of the authority of the person giving or making the certificate without any proof of appointment or signature.

**Information for more than one offence** (5) Any information in respect of an offence under this Act may be for one or more than one offence, and no information, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences.

**Tax not affected** (6) Neither the application of any provision of this section nor the enforcement of any penalty under this Act suspends or affects any remedy for the recovery of any tax payable under this Act.

**Offences** **16.**—(1) Every person who contravenes section 12 is guilty of an offence and on summary conviction is liable to a fine of \$25 for each day during which the default continues.

**Idem** (2) Every person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is guilty of an offence and on summary conviction is liable for a first offence to a fine of not less than \$25 and not more than \$200, and for any subsequent offence to a fine of not less than \$100 and not more than \$1,000.

**Idem** (3) Every person who has,

- (a) knowingly, made, participated in, assented to or acquiesced in the making of false or deceptive statements required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of any record, document or thing;
- (c) wilfully, in any manner, evaded or attempted to evade compliance with this Act or payment of tax imposed by this Act; or
- (d) conspired with any person to commit any offence described in clause *a*, *b* or *c*,

is guilty of an offence and on summary conviction, in addition to any penalty otherwise provided by this Act, is

liable to a fine of not less than \$200 and not more than an amount equal to double the amount of the tax that should have been remitted or that was sought to be evaded, or to imprisonment for a term of not more than two years, or to both.

(4) Any officer, director or agent of a corporation who<sup>idem</sup> directed, authorized, assented to, acquiesced in or participated in the commission of any act which is an offence under this Act for which the corporation would be liable for prosecution is guilty of an offence and on summary conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.

**17.** An information in respect of an offence against this<sup>Limitation</sup> Act shall be laid within six years of the time when the matter of the information arose.

**18.**—(1) Except as authorized by this section, no person<sup>Communication of information</sup> employed by the Government of Ontario shall,

- (a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act; or
- (b) knowingly allow any person to inspect or to have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

(2) Notwithstanding any other Act, but subject to sub-<sup>Officials not compellable as witnesses</sup>section 3, no person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

- (a) to give evidence relating to any information obtained by or on behalf of the Minister for the purposes of this Act; or
- (b) to produce any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

(3) Subsections 1 and 2 do not apply in respect of,

<sup>Exceptions for legal proceedings</sup>

- (a) criminal proceedings under any Act of the Parliament of Canada; or
- (b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature, or



- (c) proceedings relating to the administration or enforcement of this Act or the collection or assessment of tax.

Exception  
for internal  
adminis-  
tration

(4) A person employed by the Government of Ontario may, in the course of his duties in connection with the administration or enforcement of this Act,

- (a) communicate or allow to be communicated to an official or authorized person employed by the Government of Ontario in the administration and enforcement of any laws relating to the raising of revenues for provincial purposes any information obtained by or on behalf of the Minister for the purposes of this Act; and
- (b) allow an official or authorized person employed by the Government of Ontario in the administration or enforcement of any laws relating to the raising of revenues for provincial purposes to inspect or have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

Exception  
for objection  
or appeals,  
etc.

(5) Notwithstanding any other provision of this Act, the Minister may permit a copy of any book, record, writing, return or other document obtained by him or on his behalf for the purposes of this Act to be given to,

- (a) the person from whom the book, record, writing, return or other document was obtained; or
- (b) any person,
- (i) for the purposes of any objection or appeal that has been or may be taken by that person under this Act arising out of any assessment of tax, interest or penalties under this Act in connection with which the book, record, writing, return or other document was obtained, or

- (ii) by whom any amount payable under this Act is payable or has been paid,

or the legal representative of any person mentioned in clause *a* or *b* or the agent of any such person authorized in writing in that behalf.

Exception  
for tax  
enforcement  
in other  
jurisdictions

(6) Notwithstanding any other provision of this Act, the Minister may permit information or a copy of any book,



record, writing, return or other document obtained by him or on his behalf for the purposes of this Act to be given to,

- (a) a minister of the Government of Canada or any officer or employee employed under a minister of the Government of Canada for the purposes of administration of any Act of the Parliament of Canada imposing any tax or duty; or
- (b) a minister of the government of any province of Canada or officer or employee employed under that minister, for the purposes of administering and enforcing an Act of the Legislature of that province imposing any tax or duty,

if the minister of the Government of Canada or the minister of the government of another province, as the case may be, is permitted to give to the Minister information or copies of any book, record, writing, return or other document obtained by or on behalf of the minister of the Government of Canada, or the minister of the government of that other province, as the case may be, in the administration or enforcement of that Act for the purposes of the administration of this Act.

**19.** Where it is established to the satisfaction of the Minister that, prior to the 10th day of April, 1974, there existed a written agreement providing for the disposition of designated land either, Where  
no tax  
payable

- (a) at a definite price or consideration the amount or value of which is set out in the agreement and is not determinable or fixed by reference to any date or period of time after the 9th day of April, 1974; or
- (b) at a price or consideration the amount or value of which is determinable under the agreement by reference only to a valuation to be made as of a date not later than the 9th day of April, 1974,

no tax is payable under this Act by the transferor with respect to such disposition of designated land.

**20.—(1)** In this section, "investment property" means designated land that includes buildings that are (except for any part thereof ordinarily inhabited by the owner thereof as his principal residence) predominantly rented to be ordinarily inhabited by the tenant or occupant as his Invest-  
ment  
property  
defined

principal residence, and that have a value of not less than 40 per cent of the fair market value of the designated land, including such buildings.

Invest-  
ment  
property  
reduction

(2) Where, after the 9th day of April, 1977, designated land that is an investment property is disposed of and, during the three years immediately preceding such disposition, no other disposition of or with respect to that designated land has occurred and the designated land has, during the three years immediately preceding such disposition, been an investment property of the transferor, the taxable value, computed as if this section was not applicable, of the investment property so disposed of shall be reduced by an amount equal to three-tenths of such taxable value plus one-tenth thereof for each full year (commencing on or after the 9th day of April, 1974) in excess of three years during which the investment property disposed of was an investment property owned by the transferor and during which no previous disposition of or with respect thereto occurred.

Liability  
for tax  
on  
subdivided  
land

**21.**—(1) Notwithstanding any other provision of this Act, where designated land is disposed of by a transferor who has, prior to the disposition and in accordance with the requirements of a subdivision agreement between a municipality and the transferor and enforceable against the transferor, subdivided and serviced the designated land disposed of by him, and where, prior to or as part of the disposition, the transferor has entered into an agreement under seal with the person (hereinafter in this section called the “agreeing person”) to whom the designated land is disposed of, and that agreement contains a covenant by the agreeing person that he assumes the liability of the transferor for the tax imposed by subsection 1 of section 2 upon the designated land so disposed of and a covenant that the agreeing person will, within the nine months immediately following the disposition, commence construction of buildings on at least 50 per cent of the building sites or lots included in the designated land disposed of to him and will, within the eighteen months immediately following the disposition, commence construction of buildings on the remainder of the building sites or lots included in the designated land disposed of to him, the tax imposed by subsection 1 of section 2 with respect to the disposition to the agreeing person and for which he has covenanted to be liable is, subject to subsection 4, payable by the agreeing person immediately upon his failure to comply with the covenant to commence construction of buildings required by this subsection, and the tax is recoverable and collectable by the Minister in



the same manner and with all the rights and remedies provided by this Act as if the agreeing person were the transferor making such disposition, and where an agreement described in this subsection is made between the transferor and an agreeing person, the transferor disposing of designated land to the agreeing person is not liable for the payment of the tax imposed by subsection 1 of section 2 with respect to such disposition.

(2) The tax that an agreeing person is liable to pay under subsection 1 remains a special lien conferred by section 5 on the designated land disposed of, but the special lien shall not have priority over any mortgage or charge given by the agreeing person with respect to the designated land disposed of to him in accordance with subsection 1 that is given for the purpose of securing the advance of money borrowed for the purpose of constructing upon the designated land any building that the agreeing person has covenanted in accordance with subsection 1 to construct.

(3) Where, subject to subsection 4, the covenants required by subsection 1 to be contained in an agreement made by the agreeing person have been complied with, the tax imposed by subsection 1 of section 2 with respect to the disposition to the agreeing person and for which he covenanted to be liable is cancelled, but such cancellation does not affect in any way any liability of the agreeing person to pay tax on any disposition by him of designated land, including the designated land acquired by him under his agreement with the transferor made in accordance with subsection 1.

(4) Where the Minister is satisfied that special circumstances resulting in undue hardship for an agreeing person in complying with his covenant to commence construction of buildings in accordance with subsection 1 have occurred, he may extend any time referred to in subsection 1 within which an agreeing person is required to comply with a covenant to commence construction of buildings, and upon such extension being granted, an agreeing person's liability to pay tax shall not arise until the expiration of the extended time without the covenant having been complied with.

**22.** Notwithstanding any other provision of this Act, where a transferor who has not previously disposed of designated land exempt in whole or in part under this section disposes of designated land that was his principal residence for a period of five consecutive years prior to his ceasing

Tax to remain a special lien

Cancellation of tax

Extension of time

Exemption for disposition of former residence of person over age 65

ordinarily to inhabit the designated land as his principal residence, and where, at the time he ceased ordinarily to inhabit the designated land as his principal residence, the transferor was sixty-five years of age or older, and where, at the time of the disposition the transferor is ordinarily inhabiting as his principal residence premises that are not owned in whole or in part by him or his spouse or by both of them, the designated land so disposed of is exempt from the tax imposed by subsection 1 of section 2, to the extent that the designated land would have been exempt by virtue of clause *e* of section 4 had the transferor disposed of the designated land at the time he ceased ordinarily to inhabit it as his principal residence and had clause *e* of section 4 then been applicable to the disposition.

**Regulations**

**23.**—(1) The Minister may make regulations prescribing any form required by this Act or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain.

**Idem**

(2) The Lieutenant Governor in Council may make regulations,

- (a) exempting from tax any designated land or class of designated land or exempting from tax any designated land with respect to which any disposition or class of disposition occurs;
- (b) authorizing any person to grant, after an investigation of such matters as are specified, any exemption that may be given under clause *a*;
- (c) authorizing the refund of any tax and specifying the conditions upon which such refund may be made;
- (d) prescribing the evidence required to establish facts relevant to assessments under this Act;
- (e) requiring any class of persons to make information returns respecting any class of information required in connection with assessments under this Act;
- (f) requiring a person who is, by a regulation made under clause *e*, required to make an information return to supply a copy of the information return or of a prescribed portion thereof to the person or persons in respect of whose designated land the information return or portion thereof relates;



- (g) authorizing a designated officer or class of officers employed by the Government of Ontario to exercise powers or perform duties of the Minister under this Act;
- (h) prescribing any rate of interest that is to be prescribed;
- (i) providing for the payment of interest on any refund or on any payment of tax authorized by regulation, and prescribing the rate of such interest and the method by which it is to be calculated;
- (j) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (k) providing for relaxing the strictness of this Act relative to the incidence of tax hereunder in special circumstances where, without such relaxation, inconvenience or hardship might result or the development of designated land might be impeded;
- (l) that are considered necessary for the purpose of carrying into effect the provisions of this Act according to their intent and of supplying any deficiency therein.

(3) A regulation is, if it so provides, effective with reference <sup>Idem</sup> to a period before it was filed.

**24.** Upon receiving Royal Assent, this Act shall be deemed <sup>Commence-</sup> to have come into force on the 9th day of April, 1974 <sup>ment</sup> and to apply to every disposition made, tax imposed and everything that may be required to be done under this Act that is made, imposed or done after the 9th day of April, 1974.

**25.** This Act may be cited as *The Land Speculation* <sup>Short title</sup> *Tax Act, 1974.*





An Act to impose a Tax on Land in  
respect of certain speculative Transactions  
affecting the Control or Ownership of Land

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*1st Reading*

April 9th, 1974

*2nd Reading*

May 6th, 1974

*3rd Reading*

June 3rd, 1974

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THE HON. A. K. MEEN  
Minister of Revenue

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**The Land Transfer Tax Act, 1974**

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**THE HON. A. K. MEEN  
Minister of Revenue**

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#### EXPLANATORY NOTE

This Bill repeals *The Land Transfer Tax Act* and *The Land Transfer Tax Amendment Act, 1972*, and imposes on the registration of the conveyance of land transferred to persons who are not resident in Canada a tax of 20 per cent of the value of the consideration for the transfer. For transfers to residents of Canada, the tax remains at three-tenths of 1 per cent of the first \$35,000 of the value of the consideration for the transfer and six-tenths of 1 per cent on the remainder.

During the period between the introduction of this Bill and the giving of Royal Assent to it, a special lien for the tax is created. It will automatically expire on the 30th day of September, 1974 unless a notice of lien is registered against the land within that time. Although applicable to all taxes imposed between the introduction of the Bill and its receiving Royal Assent, the lien will only arise on the Bill receiving Royal Assent.

In view of the increased liability to tax imposed by the Bill and the differentiation between residents and non-residents of Canada, many new definitions are contained in the Bill that were not in the repealed Acts, and many administrative provisions have been added that are similar to those contained in other revenue statutes of the Province.

## The Land Transfer Tax Act, 1974

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1.—(1) In this Act,

Interpre-  
tation

- (a) "collector" means any land registrar to whom any conveyance to which this Act applies is tendered for registration;
- (b) "convey" includes the granting, assigning, releasing, surrendering, leasing or disposing of land in Ontario, agreeing to sell land in Ontario, or the giving of an option upon or with respect to any land in Ontario, whether the effect of any of the foregoing is to bring into existence an interest of any kind in land or is only for the purpose of giving effect to or formal recognition to any interest of whatsoever kind that theretofore existed in land, but "convey" does not include any transfer of land for the purpose only of securing a debt or loan, or any transfer by a creditor for the purpose only of returning land that had been used as security for a debt or loan, or any transfer of land by virtue of which there is a change in the legal ownership of the land without any change in its beneficial ownership;
- (c) "conveyance" includes any instrument or writing by which land is conveyed and includes a final order of foreclosure under any mortgage or charge affecting land;
- (d) "land" includes lands, tenements and hereditaments and any estate, right or interest therein, a leasehold interest or estate, the interest of an optionee, the interest of a purchaser under an agreement to sell land, or goodwill attributable to the location

of land or to the existence thereon of any building or fixture, and fixtures;

(e) "Minister" means the Minister of Revenue;

(f) "non-resident corporation" means a corporation incorporated, formed or otherwise organized in Canada or elsewhere,

(i) that has issued or allotted shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by one or more individuals who are non-resident persons, or by one or more corporations incorporated, formed or organized elsewhere than in Canada, or by any combination of such individuals and corporations,

(ii) that has issued or allotted shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by any one individual who is a non-resident person, or by any one corporation incorporated, formed, or organized elsewhere than in Canada,

(iii) one-half or more of the directors of which, or of the persons occupying the position of director by whatever name called, are individuals who are non-resident persons,

(iv) without share capital and one-half or more of the members of which are non-resident persons, or

(v) that is controlled directly or indirectly by one or more non-resident persons, including a non-resident corporation within the definition contained in the provisions of this clause other than this subclause;

(g) "non-resident person" means,

(i) an individual who is not ordinarily resident in Canada or who, if ordinarily resident in Canada, is neither a Canadian citizen nor an individual who has been lawfully admitted to Canada for permanent residence in Canada,



- (ii) a partnership, syndicate, association or other organization of whatsoever kind of which one-half or more of the members are non-resident persons within the meaning of subclause i, iii or iv or in which interests representing in value 50 per cent or more of the total value of the partnership property are beneficially owned by non-resident persons within the meaning of subclause i, iii or iv,
- (iii) a trust established by a non-resident person within the meaning of subclause i, ii or iv or in which non-resident persons within the meaning of subclause i, ii or iv have 50 per cent or more of the beneficial interests in the corpus of the trust or in the income arising therefrom, and "trust" includes the trustees under such a trust in their capacity as the trustees thereof, or
- (iv) a non-resident corporation;
- (h) "prescribed" means prescribed by regulations made under this Act;
- (i) "tax" means the tax imposed by this Act;
- (j) "transferee" includes a person to whom land is conveyed and any person whose interest in land is increased, created or given effect to as the result of a conveyance;
- (k) "transferor" includes any person making a conveyance of land to a transferee;
- (l) "Treasurer" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs;
- (m) "value of the consideration" includes,
  - (i) moneys paid in cash,
  - (ii) the value of any property or security exchanged for the conveyance of land,
  - (iii) the value of any encumbrance, charge or other liability to which the land being conveyed is subject at the time of registration, or

- (iv) in the case of a final order of foreclosure under any mortgage or charge affecting land, the amount owed under the mortgage at the time it was foreclosed, including principal, interest and all costs and expenses, other than municipal taxes, secured by the mortgage and owing at that time.

Control  
defined

(2) For the purposes of subclause v of clause f of subsection 1, "control" means control by another corporation, individual or trust that is in fact exercising effective control either directly or indirectly and either through the holding of shares of the corporation or of any other corporation or through the holding of a significant portion of any class of shares of the corporation or of the outstanding debt of the corporation or of any shareholder or member of the corporation, or by any other means whether of a like or different nature.

Imposition  
of tax

2.—(1) Every person who tenders for registration in Ontario a conveyance whereby any land is conveyed to or in trust for any transferee who is not a non-resident person shall, before the conveyance is registered, pay a tax computed at the rate of three-tenths of 1 per cent of the value of the consideration for the conveyance up to and including \$35,000, and at the rate of six-tenths of 1 per cent upon the remainder of the value of the consideration.

Idem

(2) Every person who tenders for registration in Ontario a conveyance whereby any land is conveyed to or in trust for any transferee who is a non-resident person shall, before the conveyance is registered, pay a tax computed at the rate of 20 per cent of the value of the consideration for the conveyance.

Tax to be  
payable on  
one registra-  
tion only

(3) Where the same conveyance may be registered in more than one office under the registry system, in more than one office under the land titles system, or under both the registry system and the land titles system, the tax is payable only once in respect of the first of such conveyances tendered for registration.

Exemption

(4) No tax is payable where the only transferee in a conveyance that is tendered for registration is the Crown or a Crown agency within the meaning of *The Crown Agency Act*.

R.S.O. 1970,  
c. 100

Minister's  
certification

(5) Where the Minister or some person authorized by him in writing to do so has indicated over his signature upon any conveyance that such tax as is payable has been

paid, the conveyance may be registered without the payment of tax to the collector and without the production of the affidavits required by this Act, but the Minister or a person acting under his authority shall make the certification provided for by this subsection only when he is satisfied that all tax is paid or that security for the payment of the tax has been furnished to the Minister or to a collector in a form and of a kind that is acceptable to the Minister.

3. Every collector shall, in the first week of each month or at such other time as the Minister may from time to time require in writing, send to the Minister a statement of the amount of tax collected by him during the previous month or during such other period of time as the Minister shall in writing specify, and the collector shall pay over the amount of such tax to the Treasurer for the uses of Ontario.

Returns by  
collector

4.—(1) There shall be filed with the collector and attached by him to the conveyance to which it relates an affidavit in the prescribed form setting out the true value of the consideration for the conveyance, the true amount in cash and the value of any property or security included in the value of the consideration, the amount or value of any lien or encumbrance subject to which the conveyance was made, and such other information as the Minister may prescribe to be disclosed in the affidavit.

Contents  
of  
affidavit  
as to  
consideration

(2) The affidavit required by subsection 1 may be made by the person making the conveyance or by the transferee or by any person acting for either of them under a power of attorney or as an agent authorized in writing so to act, or by the solicitor for the person making the conveyance or for the transferee, or by some other person authorized in writing by the Minister to make the affidavit.

Affidavit  
by whom  
to be made

(3) In addition to the affidavit required by subsection 1, there shall be filed with the collector and attached by him to the conveyance to which it relates an affidavit in Form 1 or in such other form as is prescribed, and the affidavit shall be made by,

Affidavit  
as to  
residence

- (a) the transferee to whom or in trust for whom any land is conveyed;
- (b) a trustee to whom any land is conveyed and who is shown as a trustee in the conveyance,
- (c) the transferee named in the conveyance,
- (d) an agent of any person referred to in clause a, b or c, if the agent is authorized in writing to make the affidavit; or



- (e) the solicitor acting in the transaction as the solicitor for any person referred to in clause *a*, *b* or *c*,

and such affidavit shall state whether the transferee to whom the land is being conveyed is a non-resident person or the trustee for a non-resident person, and shall state such other information as is required in order to complete the affidavit.

Affidavits.  
what to  
contain

(4) The affidavit required by subsection 1 or 3 shall state that the person making it has personal knowledge of the facts stated in it, and there shall be filed with the affidavit the power of attorney or written authorization, if any, referred to in subsection 2 or 3.

Affidavit  
to be  
referred to  
Minister

(5) If the collector is not satisfied that the affidavit required by subsection 1 sets out the true value of the consideration for the conveyance, he may refuse to register the conveyance to which the affidavit relates until the Minister has signified over his signature that he is satisfied that the value of the consideration stated in the affidavit is the true value of the consideration.

Tax payable  
when affidavit  
under subs. 3  
not furnished

(6) Where a conveyance is tendered for registration without the affidavit required by subsection 3, tax is payable at the rate provided in subsection 2 of section 2, and the collector shall not register the conveyance until such tax is paid, but if it is subsequently established to the satisfaction of the Minister that, had the affidavit required by subsection 3 been furnished to the collector, tax would have been payable as provided in subsection 1 of section 2, the Minister may refund the amount paid under this subsection in excess of the tax provided for in subsection 1 of section 2.

Liability  
of  
transferor

(7) When the affidavit required by subsection 1 is made by the transferor or by a person acting as attorney, agent or solicitor for the transferor, the transferor is personally liable to the Crown jointly and severally with the transferee for the amount of the tax.

Right of  
transferor  
to recover

(8) Where the transferor is compelled to pay the tax or a part thereof, he has the right to recover the amount so paid from the transferee in an action in any court of competent jurisdiction.

Payment  
of tax  
under  
protest

5.—(1) Where the right of the collector to require payment of the tax is disputed by the person tendering a conveyance for registration, the tax may be paid under protest and the collector shall give a receipt in writing signed by him for the amount paid and stating that it was paid under



protest, and he shall thereupon refer the matter for the decision of the Minister or of such official as the Minister appoints, who may order the refund of the tax or any part thereof to the person who paid it.

(2) In any dispute over the liability to tax of any person, the Minister may, after the tax has been paid, and if the dispute involves the interpretation of a provision of this Act, or involves an issue of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Supreme Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined.

Determina-  
tion of  
issues of  
law

6.—(1) Upon this Act receiving Royal Assent, every tax payable under this Act as a result of the tender of any conveyance for registration after the 9th day of April, 1974 and before the day on which this Act receives Royal Assent that was not paid as herein provided for shall form a special lien upon the land conveyed by any such conveyance, and the special lien shall be in favour of Her Majesty in right of Ontario and has complete priority over every encumbrance of whatsoever kind that affects the land and that arose or came into existence on or after the 9th day of April, 1974 or was registered against the land on or after that date.

Lien  
for  
tax

(2) The special lien conferred on the Crown by this section expires on the 30th day of September, 1974, unless prior to the expiry of the special lien, there is registered against the land affected by the special lien a notice of lien in prescribed form.

Expiry  
of  
lien

(3) Before the issue of a warrant under subsection 4, the Minister shall send by mail or by registered mail, or deliver by personal service, a notice to all persons who have an interest, encumbrance or charge registered under the land titles system or the registry system against the land for the sale of which the warrant is to be issued that he intends to have the land that is subject to the special lien conferred by this Act sold pursuant to subsection 4, and such notice shall be given not less than thirty days or more than sixty days before the issue of the warrant, and shall be sent, in the case of a notice sent by mail, to the latest known address of each person to whom notice is to be given and to such other address as, in the opinion of the Minister, may be more likely to bring the notice to the person's attention.

Notice of  
intended  
sale

Recovery  
of lien  
by sale

(4) Subject to subsection 3, the Minister may, by his warrant directed to the sheriff of the county, district or judicial district in which is situate any land that is subject to the special lien conferred by this Act, require the sheriff to sell the land within six months or such longer period as is stated in the warrant, and the sheriff, upon receiving the warrant, shall proceed within the period specified to sell the land in the same manner as for a sale under a writ of execution issued out of the Supreme Court, and any person purchasing from the sheriff at such a sale shall take good title to the land free and clear of all encumbrances and claims of any kind of all persons whatsoever that do not have priority over the special lien but subject to all the rights and encumbrances of persons who have an interest in the land that have priority over the special lien.

Idem

(5) The proceeds of sale received by the sheriff from a sale under a warrant authorized by subsection 4 shall be applied first to pay the costs and expenses of the sheriff in conducting the sale and next in payment of the amount of tax that was a special lien on the land conferred by this Act, and any surplus thereafter remaining shall be paid, in order of their priorities, to those whose rights in the land were subject to the special lien, and, if the order of those priorities cannot be established by the sheriff, shall be paid into court to be dealt with as the court shall direct.

Right to  
discharge  
lien

(6) At any time prior to a sale authorized by subsection 4, any person interested in the land affected by the special lien conferred by this Act may pay to the Minister a sum sufficient to discharge the special lien, and if the special lien is discharged by some person having an encumbrance against the land, the amount accepted by the Minister may be added to that person's encumbrance and shall, for all purposes and in every court, thereafter be treated as part of the encumbrance and shall bear interest at the rate provided for in the encumbrance and shall be collectable in the same way as the encumbrance is enforceable.

Waiver  
of lien

(7) Upon such conditions as he may impose, the Minister may abandon, postpone, release or waive with respect to all or any part of any land any special lien conferred by this Act.

Offence

7.—(1) Every person who knowingly contravenes any provision of this Act or who knowingly makes an affidavit required by this Act that falsely discloses the value of the consideration for any conveyance of land or falsely states that a person who is a non-resident person is not a non-resident person, is guilty of an offence and on summary conviction is liable to a fine of not less than the amount of tax that was not paid to the collector as provided for in this Act plus an amount of not less than \$50 and not more than \$1,000.



(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Act as well as the failure of any person to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue. Compliance  
how  
proved

(3) An information in respect of an offence under this Act shall be laid within three years of the time when the matter of the information arose. Information  
when to  
be laid

8. — (1) Where a person has paid an amount under this Act as tax that is not payable as tax under this Act, the Minister may, upon receipt of satisfactory evidence that the amount was wrongly paid, authorize the Treasurer to refund such amount or any part thereof, but no refund shall be made unless it is applied for within three years after the date of the payment of any amount that is alleged not to have been payable as tax under this Act. Refund

(2) Where a conveyance has been tendered for registration that conveys land both to non-resident persons and to persons who are not non-resident persons, the Minister may refund to the persons who are not non-resident persons an amount equal to the difference between, Idem

(a) the amount that would result from the application of the rates of tax in subsection 1 of section 2 to the value of the consideration attributable in the opinion of the Minister to the land conveyed to persons who are not non-resident persons; and

(b) the amount of tax paid on the value of the consideration attributable in the opinion of the Minister to land conveyed to persons who are not non-resident persons,

but no refund under this subsection shall be made if the land is held in joint tenancy by the non-resident person and the persons who are not non-resident persons or if the Minister is of the opinion that the land conveyed to persons who are not non-resident persons cannot readily be distinguished from the land conveyed to non-resident persons.

9. — (1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or where anything is done in connection with any business or where any books or records are or should be kept and, Investigation

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or to the amount of tax payable under this Act;
- (b) examine property described in any conveyance or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of any affidavit required by this Act or in ascertaining the information that is or should be in the books or records or in such affidavit, or the amount of any tax payable under this Act;
- (c) require any officer, director, agent or representative of a transferee a conveyance to whom has been registered as a result of which there may be a possible liability to pay tax under this Act, and any person on the premises may be required to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration and, for that purpose, he may require such person to attend at the premises or place with him; and
- (d) if during the course of any audit or examination it appears to him that there has been a violation of this Act or the regulations made under this Act, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

Idem

(2) The Minister may, for any purpose relating to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person any information or additional information, or the production, or production on oath, of any books, letters, accounts, invoices, statements (financial or otherwise) or other documents within such reasonable time as is stipulated therein, provided that, in the opinion of the Minister or of the person authorized by him, it is necessary to make the demand in order to determine the liability or possible liability to tax under this Act.

Copies  
as  
evidence

(3) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may



make or cause to be made one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

(4) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do or shall prevent or attempt to prevent any person doing any such thing, and notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do. Compliance

(5) Every person who has failed to comply with or has contravened this section is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to a fine of \$25 for each day during which the default continues. Offence

10. Until a different form is prescribed, the form of affidavit prescribed by Ontario Regulation 251/73 made under *The Land Transfer Tax Act* shall be the form of affidavit required by subsection 1 of section 4. Form of affidavit  
R.S.O. 1970,  
c. 235

11. A person authorized to administer an oath under *The Land Titles Act* or *The Registry Act* may administer an oath for any of the purposes of this Act. Adminis-  
tration of  
oaths  
R.S.O. 1970,  
cc 234, 409

12.—(1) Where any person responsible for the payment of tax fails to pay it as required under this Act, the Minister may make an assessment of the tax for which such person is responsible and which has not been paid. Assessment

(2) Where the Minister has made an assessment under subsection 1, he shall send by mail or by registered mail or deliver by personal service a notice of assessment to the person so assessed, and the amount of the assessment shall be remitted to the Minister by the person so assessed within thirty days from the date of mailing or delivery of the notice of assessment. Notice of  
assessment

(3) Where the Minister has made an assessment under subsection 1, the notice of assessment may provide that the amount assessed is payable forthwith. Idem

(4) The Minister may, at any time he considers reasonable, assess or reassess any tax payable by any person under this Act. Assessment  
from time  
to time

Assessment on inspection	(5) Where it appears from an inspection, audit or examination of the books of account, records or documents of any person that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate the tax payable in such manner and form and by such procedure as the Minister considers adequate and expedient, and the Minister shall assess the amount of the tax.
Notice of assessment under subs. 4 or 5	(6) The Minister shall send by mail or by registered mail or deliver by personal service a notice of the assessment made under subsection 4 or 5 to the person so assessed at his latest known address, and the notice may provide that the amount assessed is payable forthwith.
Liability to tax not affected	(7) Liability for tax is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.
Minister not bound by information	(8) The Minister is not bound by any information delivered by or on behalf of any person responsible for the payment of the tax and may, notwithstanding any information that has been delivered or if no information has been delivered, assess the tax payable under this Act.
Assessment valid and binding	(9) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.
Idem	(10) The amount of any assessment is payable within the time required by the notice of assessment whether or not an objection or appeal from the assessment is made or taken.
Notice of objection	<b>13.—</b> (1) Where a person objects to an assessment made under section 12 he may, within ninety days after the day of mailing or delivery by personal service of the notice of assessment, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.
Service	(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister.
Reconsideration	(3) Upon receipt of a notice of objection, the Minister shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, and he shall thereupon notify the person who has made the objection of his action by registered mail.

14.—(1) After the Minister has given the notification Appeal required by subsection 3 of section 13, a person who has served notice of objection under section 13 may appeal to the Supreme Court to have the assessment vacated or varied or reassessed, but no appeal under this section shall be instituted after the expiration of ninety days from the day on which notice has been mailed to such person under subsection 3 of section 13 and an appeal under this section shall not be made to the Divisional Court.

(2) An appeal to the Supreme Court shall be instituted Appeal how instituted by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or with the Local Registrar of the Supreme Court for the county, district or judicial district in which is situate the designated land the tax imposed on which is under appeal.

(3) A notice of appeal shall be served on the Minister by Service being sent by registered mail addressed to the Minister.

(4) The person appealing shall set out in his notice Contents of notice of appeal of appeal a statement of the allegations of fact and the statutory provisions and reasons that he intends to submit in support of his appeal.

(5) After the service on him of a notice of appeal Reply to notice of appeal under this section, the Minister shall with all due despatch serve on the person appealing and file in the Supreme Court where the notice of appeal was filed a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as he considers relevant.

(6) Upon the filing in the Supreme Court of the material Matter deemed action referred to in subsection 5, the matter shall be deemed to be an action in the court, and the practice and procedure of the court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter that is deemed to be an action under this subsection, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court.

(7) The court may dispose of an appeal by allowing it, Disposition of appeal by dismissing it, or by allowing it in part and directing the Minister to vacate the assessment, vary the assessment or reconsider the assessment and reassess as indicted by the judgement of the court.



- Idem** (8) In delivering judgment disposing of an appeal, the court may order payment or refund of tax by the appellant or by the Treasurer, as the case may be, and may make such order as to costs as is considered proper.
- Irregularities** (9) No assessment shall be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of any person in the observance of any directory provision of this Act.
- Extension of time** (10) The time within which a notice of objection under subsection 1 of section 13 or a notice of appeal under subsection 1 of this section is to be served may be extended by the Minister if application for extension is made before expiration of the time for service of the notice of objection or notice of appeal, as the case may be.
- Interest on unpaid tax** **15.**—(1) Where the tax imposed by this Act is not paid at the time provided for, interest on the unpaid tax shall be paid to the Treasurer at the rate of 9 per cent per annum or at such other rate as may be prescribed by the Lieutenant Governor in Council by regulation.
- Application of payment** (2) Any payment received by the Treasurer or a collector on account of any tax under this Act shall first be applied to any interest payable on the tax with respect to which the payment is made, but this subsection does not apply to payments on account of any fine or penalty payable under this Act.
- Deferral or remission of tax on non-residents** **16.**—(1) Where tax has been paid or may be payable on the registration of a conveyance of land to a non-resident person, and that non-resident person satisfies the Minister that the land was or is to be acquired for the purpose of residential, commercial or industrial development and for resale to persons who are not non-resident persons, the Minister may, with the approval of the Lieutenant Governor in Council, defer the payment of the tax, or remit the tax paid, on such conditions as to the use and development of the land or otherwise as are considered advisable and sufficient to ensure the development of the land as proposed and its conveyance to persons who are not non-resident persons, and any tax deferred or remitted under this subsection constitutes a first lien and charge in favour of Her Majesty in right of Ontario on the land so acquired or to be acquired, and the lien and charge shall be effective upon registration by the Minister of a notice of such lien and charge, and the Minister may discharge the lien and charge in whole or in part as the conditions that he has imposed are fulfilled.



(2) A deferral or remission under subsection 1 may not exceed the amount by which the rate of tax imposed by subsection 2 of section 2 exceeds the rate of tax imposed by subsection 1 of section 2, but may otherwise be for all or any part of the tax. Idem

(3) Where tax is deferred under subsection 1 upon conditions that are fulfilled, the amount of the tax so deferred is thereupon cancelled and no longer owing as tax under this Act, and where the conditions upon which any tax has been remitted under subsection 1 are not fulfilled, the tax so remitted thereupon becomes payable. Deferred tax cancelled

**17.** Where a conveyance is tendered for registration,

When tax not payable under this Act

- (a) after the 9th day of April, 1974 and before the 16th day of May, 1974, and is the result of an agreement that is proved to the satisfaction of the Minister to have been reduced to writing and executed by the parties to it before the 10th day of April, 1974; or
- (b) after the 15th day of May, 1974, and is the result of an agreement that is proved to the satisfaction of the Minister to have been reduced to writing and executed by the parties to it before the 10th day of April, 1974 and that has been filed with the Minister before the 16th day of May, 1974,

the tax payable by the person tendering the conveyance for registration shall be the tax provided for in *The Land Transfer Tax Act*, as amended by *The Land Transfer Tax Amendment Act, 1972*, notwithstanding the repeal of those Acts, and the tax provided for in this Act does not apply to the person tendering the conveyance for registration. R.S.O. 1970  
c. 235  
1972 c. 15

**18.—(1)** The Minister may make regulations,

Regulations

- (a) prescribing any form required by this Act or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any prescribed form shall be completed and what information it shall contain;
- (b) repealing Form 1 and substituting another Form therefor.

(2) The Lieutenant Governor in Council may make regulations, Idem

- (a) exempting from tax any person tendering for registration any class of conveyance to which it is

determined that this Act was not intended to apply, or any conveyance to persons prescribed for the purpose of this clause;

- (b) providing for the collection of tax, the appointment of persons other than collectors to collect the tax, and establishing procedures for the collection of the tax;
- (c) providing for the refund of tax in whole or in part owing to special circumstances, and prescribing the terms and conditions under which such refund may be made;
- (d) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
- (e) providing for the method of calculating and ascertaining the value of the consideration in any case or class of cases;
- (f) authorizing any person or persons, on such conditions and subject to such rules as may be specified, to exempt from or to refund the tax or any part thereof imposed by subsection 2 of section 2 any person tendering for registration any class of conveyance to which it is determined that this Act was not intended to apply, or any conveyance to any non-resident person;
- (g) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Idem

(3) A regulation is, if it so provides, effective with reference to a period before it was filed.

Acts repealed

**19.** *The Land Transfer Tax Act*, being chapter 235 of the Revised Statutes of Ontario, 1970, and *The Land Transfer Tax Amendment Act, 1972*, being chapter 15, are repealed.

Commencement

**20.**—(1) Upon receiving Royal Assent, this Act shall be deemed to have come into force on the 10th day of April, 1974, and the tax imposed by this Act shall be levied and paid as herein provided notwithstanding that this Act receives Royal Assent after the 10th day of April, 1974.

Application

(2) Where any act or thing that is required by this Act is done or omitted to be done on or after the 10th day

of April, 1974 and before the day upon which this Act receives Royal Assent, the fact that this Act was not in force at the time the act or thing was done or omitted to be done shall not relieve any person from the liability to tax imposed by this Act or from liability to any penalty or offence provided for in this Act.

**21.** This Act may be cited as *The Land Transfer Tax* <sup>Short title</sup>  
*Act, 1974.*

## Form 1

*The Land Transfer Tax Act, 1974*

### AFFIDAVIT OF RESIDENCE

IN THE MATTER OF THE CONVEYANCE OF.....

(insert brief description of land)

To .....  
(insert names of all transferees)

I ..... of .....  
(print name)

(print address)

MAKE OATH AND SAY THAT

1. I am (place a clear mark within the square opposite that one of the following paragraphs that describes the capacity of the deponent)

- (a) A person to whom or in trust for whom the land conveyed in the above-described conveyance is being conveyed
- (b) One of the trustees named in the above-described conveyance to whom the land is being conveyed
- (c) A transferee named in the above-described conveyance
- (d) An agent authorized in writing to act for

..... who is a person described in  
(insert name of principal)

paragraph.....above (insert only one of paragraph  
(a), (b), or (c) above

(e) The solicitor acting in this matter for □

.....who is a person described in  
(insert name of client)

paragraph.....above (insert only one of paragraph (a),  
(b) or (c) above);

and as such, I have personal knowledge of the facts herein deposed to.

2. None of the transferees to whom or in trust for whom the land conveyed in the above-described conveyance is being conveyed is, within the meaning of the Act, a non-resident person (strike out this paragraph if inapplicable).
3. The following persons to whom or in trust for whom the land conveyed in the above-described conveyance is being conveyed are non-resident persons within the meaning of the Act.

.....  
.....  
.....

(insert the name and place of residence—or in the case of a corporation, the place of incorporation—of any transferee who is a non-resident person. If space is insufficient, attach a list of those transferees who are non-resident persons.)

4. I have read and considered the definitions of "non-resident corporation" and "non-resident person" set out respectively in clauses *f* and *g* of subsection 1 of section 1 of the Act.

Sworn before me	}
in the	
of	
this	
day of	
	19

A Commissioner, etc.









*1st Reading*

April 9th, 1974

*2nd Reading*

*3rd Reading*

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THE HON. A. K. MEEN  
Minister of Revenue

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*(Government Bill)*

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**The Land Transfer Tax Act, 1974**

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THE HON. A. K. MEEN  
Minister of Revenue

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*(Reprinted as amended by the Committee of the Whole House)*

#### EXPLANATORY NOTE

This Bill repeals *The Land Transfer Tax Act* and *The Land Transfer Tax Amendment Act, 1972*, and imposes on the registration of the conveyance of land transferred to persons who are not resident in Canada a tax of 20 per cent of the value of the consideration for the transfer. For transfers to residents of Canada, the tax remains at three-tenths of 1 per cent of the first \$35,000 of the value of the consideration for the transfer and six-tenths of 1 per cent on the remainder.

During the period between the introduction of this Bill and the giving of Royal Assent to it, a special lien for the tax is created. It will automatically expire on the 30th day of September, 1974 unless a notice of lien is registered against the land within that time. Although applicable to all taxes imposed between the introduction of the Bill and its receiving Royal Assent, the lien will only arise on the Bill receiving Royal Assent.

In view of the increased liability to tax imposed by the Bill and the differentiation between residents and non-residents of Canada, many new definitions are contained in the Bill that were not in the repealed Acts, and many administrative provisions have been added that are similar to those contained in other revenue statutes of the Province.

## The Land Transfer Tax Act, 1974

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** In this Act,

Interpre-  
tation

- (a) "collector" means any land registrar to whom any conveyance to which this Act applies is tendered for registration;
- (b) "convey" includes the granting, assigning, releasing, surrendering, leasing or disposing of land in Ontario, agreeing to sell land in Ontario, or the giving of an option upon or with respect to any land in Ontario, whether the effect of any of the foregoing is to bring into existence an interest of any kind in land or is only for the purpose of giving effect to or formal recognition to any interest of whatsoever kind that theretofore existed in land, but "convey" does not include any transfer of land for the purpose only of securing a debt or loan, or any transfer by a creditor for the purpose only of returning land that had been used as security for a debt or loan, or any transfer of land by virtue of which there is a change in the legal ownership of the land without any change in its beneficial ownership;
- (c) "conveyance" includes any instrument or writing by which land is conveyed and includes a final order of foreclosure under any mortgage or charge affecting land;
- (d) "land" includes lands, tenements and hereditaments and any estate, right or interest therein, a leasehold interest or estate, the interest of an optionee, the interest of a purchaser under an agreement to sell land, or goodwill attributable to the location

of land or to the existence thereon of any building or fixture, and fixtures;

(e) "Minister" means the Minister of Revenue;

(f) "non-resident corporation" means a corporation incorporated, formed or otherwise organized in Canada or elsewhere,

(i) that has issued or allotted shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by one or more individuals who are non-resident persons, or by one or more corporations incorporated, formed or organized elsewhere than in Canada, or by any combination of such individuals and corporations,

(ii) that has issued or allotted shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by any one individual who is a non-resident person, or by any one corporation incorporated, formed, or organized elsewhere than in Canada, but this subclause does not apply where it is established to the satisfaction of the Minister that such individual or corporation does not in fact exercise control, directly or indirectly, over the corporation that has issued or allotted to such individual or corporation shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation,

(iii) one-half or more of the directors of which, or of the persons occupying the position of director by whatever name called, are individuals who are non-resident persons,

(iv) without share capital and one-half or more of the members of which are non-resident persons, or

(v) that is controlled directly or indirectly by one or more non-resident persons, including a non-resident corporation within the definition contained in the provisions of this clause other than this subclause;



(g) "non-resident person" means,

(i) an individual who is not ordinarily resident in Canada or who, if ordinarily resident in Canada, is neither a Canadian citizen nor an individual who has been lawfully admitted to Canada for permanent residence in Canada,

(ii) a partnership, syndicate, association or other organization of whatsoever kind of which one-half or more of the members are non-resident persons within the meaning of subclause i, iii or iv or in which interests representing in value 50 per cent or more of the total value of the partnership property are beneficially owned by non-resident persons within the meaning of subclause i, iii or iv,

(iii) a trust established by a non-resident person within the meaning of subclause i, ii or iv or in which non-resident persons within the meaning of subclause i, ii or iv have 50 per cent or more of the beneficial interests in the corpus of the trust or in the income arising therefrom, and "trust" includes the trustees under such a trust in their capacity as the trustees thereof, or

(iv) a non-resident corporation;

(h) "prescribed" means prescribed by regulations made under this Act;

(i) "tax" means the tax imposed by this Act;

(j) "transferee" includes a person to whom land is conveyed and any person whose interest in land is increased, created or given effect to as the result of a conveyance;

(k) "transferor" includes any person making a conveyance of land to a transferee;

(l) "Treasurer" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs;

(m) "value of the consideration" includes,

(i) moneys paid in cash,

- (ii) the value of any property or security exchanged for the conveyance of land,
- (iii) the value of any encumbrance, charge or other liability to which the land being conveyed is subject at the time of registration, or
- (iv) in the case of a final order of foreclosure under any mortgage or charge affecting land, the amount owed under the mortgage at the time it was foreclosed, including principal, interest and all costs and expenses, other than municipal taxes, secured by the mortgage and owing at that time.

Control  
defined

(2) For the purposes of clause *f* of subsection 1, "control" means control by another corporation, individual or trust that is in fact exercising effective control either directly or indirectly and either through the holding of shares of the corporation or of any other corporation or through the holding of a significant portion of any class of shares of the corporation or of the outstanding debt of the corporation or of any shareholder or member of the corporation, or by any other means whether of a like or different nature.

Ordinarily  
resident  
defined

(3) For the purpose of clause *g* of subsection 1, an individual shall be considered to be ordinarily resident in Canada if, at the time the expression is being applied,

- (a) he has been lawfully admitted to Canada for permanent residence in Canada;
- (b) he has sojourned in Canada during the next preceding 24 months for a period of, or periods the aggregate of which is, 366 days or more;
- (c) he is a member of the Canadian Forces required to reside outside Canada;
- (d) he is an ambassador, minister, high commissioner, officer or servant of Canada, or is an agent-general, officer or servant of a province of Canada, and resided in Canada immediately prior to appointment or employment by Canada or a province of Canada or is entitled to receive representation allowances;
- (e) he is performing services in a country other than Canada under an international development assistance program of the Government of Canada that is

prescribed for the purposes of paragraph *d* of subsection 1 of section 250 of the *Income Tax Act* (Canada), and resided in Canada at any time in the three month period preceding the day on which such services commenced; or

1970-71,  
c. 63 (Can.)

- (f) he resides outside Canada and is the spouse or child of, and is living with, an individual described in clause *c*, *d* or *e*.

2. — (1) Every person who tenders for registration in Ontario a conveyance whereby any land is conveyed to or in trust for any transferee who is not a non-resident person shall, before the conveyance is registered, pay a tax computed at the rate of three-tenths of 1 per cent of the value of the consideration for the conveyance up to and including \$35,000, and at the rate of six-tenths of 1 per cent upon the remainder of the value of the consideration.

Imposition  
of tax

(2) Every person who tenders for registration in Ontario a conveyance whereby any land is conveyed to or in trust for any transferee who is a non-resident person shall, before the conveyance is registered, pay a tax computed at the rate of 20 per cent of the value of the consideration for the conveyance.

Idem

(3) Where the same conveyance may be registered in more than one office under the registry system, in more than one office under the land titles system, or under both the registry system and the land titles system, the tax is payable only once in respect of the first of such conveyances tendered for registration.

Tax to be  
payable on  
one registra-  
tion only

(4) No tax is payable where the only transferee in a conveyance that is tendered for registration is the Crown or a Crown agency within the meaning of *The Crown Agency Act*.

Exemption

R.S. 1970,  
c. 30

(5) Where the Minister or some person authorized by him in writing to do so has indicated over his signature upon any conveyance that such tax as is payable has been paid, the conveyance may be registered without the payment of tax to the collector and without the production of the affidavits required by this Act, but the Minister or a person acting under his authority shall make the certification provided for by this subsection only when he is satisfied that all tax is paid or that security for the payment of the tax has been furnished to the Minister or to a collector in a form and of a kind that is acceptable to the Minister.

Minister's  
certification



Returns by  
collector

3. Every collector shall, in the first week of each month or at such other time as the Minister may from time to time require in writing, send to the Minister a statement of the amount of tax collected by him during the previous month or during such other period of time as the Minister shall in writing specify, and the collector shall pay over the amount of such tax to the Treasurer for the uses of Ontario.

Contents  
of  
affidavit  
as to  
consideration

4.—(1) There shall be filed with the collector and attached by him to the conveyance to which it relates an affidavit in the prescribed form setting out the true value of the consideration for the conveyance, the true amount in cash and the value of any property or security included in the value of the consideration, the amount or value of any lien or encumbrance subject to which the conveyance was made, and such other information as the Minister may prescribe to be disclosed in the affidavit.

Affidavit  
by whom  
to be made

(2) The affidavit required by subsection 1 may be made by the person making the conveyance or by the transferee or by any person acting for either of them under a power of attorney or as an agent authorized in writing so to act, or by the solicitor for the person making the conveyance or for the transferee, or by some other person authorized in writing by the Minister to make the affidavit.

Affidavit  
as to  
residence

(3) In addition to the affidavit required by subsection 1, there shall be filed with the collector and attached by him to the conveyance to which it relates an affidavit in Form 1 or in such other form as is prescribed, and the affidavit shall be made by,

- (a) the transferee to whom or in trust for whom any land is conveyed;
- (b) a trustee to whom any land is conveyed and who is shown as a trustee in the conveyance;
- (c) the transferee named in the conveyance;
- (d) an agent of any person referred to in clause *a*, *b* or *c*, if the agent is authorized in writing to make the affidavit; or
- (e) the solicitor acting in the transaction as the solicitor for any person referred to in clause *a*, *b* or *c*,

and such affidavit shall state whether the transferee to whom the land is being conveyed is a non-resident person or the trustee for a non-resident person, and shall state such other information as is required in order to complete the affidavit.



(4) The affidavit required by subsection 1 or 3 shall state that the person making it has personal knowledge of the facts stated in it, and there shall be filed with the affidavit the power of attorney or written authorization, if any, referred to in subsection 2 or 3. Affidavits what to contain

(5) If the collector is not satisfied that the affidavit required by subsection 1 sets out the true value of the consideration for the conveyance, he may refuse to register the conveyance to which the affidavit relates until the Minister has signified over his signature that he is satisfied that the value of the consideration stated in the affidavit is the true value of the consideration. Affidavit to be referred to Minister

(6) Where a conveyance is tendered for registration without the affidavit required by subsection 3, tax is payable at the rate provided in subsection 2 of section 2, and the collector shall not register the conveyance until such tax is paid, but if it is subsequently established to the satisfaction of the Minister that, had the affidavit required by subsection 3 been furnished to the collector, tax would have been payable as provided in subsection 1 of section 2, the Minister may refund the amount paid under this subsection in excess of the tax provided for in subsection 1 of section 2. Tax payable when affidavit under sub. 3 not furnished

5.—(1) Where the right of the collector to require payment of the tax is disputed by the person tendering a conveyance for registration, the tax may be paid under protest and the collector shall give a receipt in writing signed by him for the amount paid and stating that it was paid under protest, and he shall thereupon refer the matter for the decision of the Minister or of such official as the Minister appoints, who may order the refund of the tax or any part thereof to the person who paid it. Payment of tax under protest

(2) In any dispute over the liability to tax of any person, the Minister may, after the tax has been paid, and if the dispute involves the interpretation of a provision of this Act, or involves an issue of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Supreme Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined. Determination of issues of law

6.—(1) Upon this Act receiving Royal Assent, every tax payable under this Act as a result of the tender of any Lien for tax

conveyance for registration after the 9th day of April, 1974 and before the day on which this Act receives Royal Assent that was not paid as herein provided for shall form a special lien upon the land conveyed by any such conveyance, and the special lien shall be in favour of Her Majesty in right of Ontario and has complete priority over every encumbrance of whatsoever kind that affects the land and that arose or came into existence on or after the 9th day of April, 1974 as part of or subsequent to the transaction or series of transactions that resulted in the tender for registration of the conveyance evidencing or carrying into effect the transaction or series of transactions.

Expiry  
of  
lien

(2) The special lien conferred on the Crown by this section expires on the 30th day of September, 1974, unless prior to the expiry of the special lien, there is registered against the land affected by the special lien a notice of lien in prescribed form.

Notice of  
intended  
sale

(3) Before the issue of a warrant under subsection 4, the Minister shall send by mail or by registered mail, or deliver by personal service, a notice to all persons who have an interest, encumbrance or charge registered under the land titles system or the registry system against the land for the sale of which the warrant is to be issued that he intends to have the land that is subject to the special lien conferred by this Act sold pursuant to subsection 4, and such notice shall be given not less than thirty days or more than sixty days before the issue of the warrant, and shall be sent, in the case of a notice sent by mail, to the latest known address of each person to whom notice is to be given and to such other address as, in the opinion of the Minister, may be more likely to bring the notice to the person's attention.

Recovery  
of lien  
by sale

(4) Subject to subsection 3, the Minister may, by his warrant directed to the sheriff of the county, district or judicial district in which is situate any land that is subject to the special lien conferred by this Act, require the sheriff to sell the land within six months or such longer period as is stated in the warrant, and the sheriff, upon receiving the warrant, shall proceed within the period specified to sell the land in the same manner as for a sale under a writ of execution issued out of the Supreme Court, and any person purchasing from the sheriff at such a sale shall take good title to the land free and clear of all encumbrances and claims of any kind of all persons whatsoever that do not have priority over the special lien but subject to all the rights and encumbrances of persons who have an interest in the land that have priority over the special lien.



(5) The proceeds of sale received by the sheriff from a sale <sup>item</sup> under a warrant authorized by subsection 4 shall be applied first to pay the costs and expenses of the sheriff in conducting the sale and next in payment of the amount of tax that was a special lien on the land conferred by this Act, and any surplus thereafter remaining shall be paid, in order of their priorities, to those whose rights in the land were subject to the special lien, and, if the order of those priorities cannot be established by the sheriff, shall be paid into court to be dealt with as the court shall direct.

(6) At any time prior to a sale authorized by subsection 4, <sup>Right to discharge lien</sup> any person interested in the land affected by the special lien conferred by this Act may pay to the Minister a sum sufficient to discharge the special lien, and if the special lien is discharged by some person having an encumbrance against the land, the amount accepted by the Minister may be added to that person's encumbrance and shall, for all purposes and in every court, thereafter be treated as part of the encumbrance and shall bear interest at the rate provided for in the encumbrance and shall be collectable in the same way as the encumbrance is enforceable.

(7) Upon such conditions as he may impose, the Minister <sup>Waiver of lien</sup> may abandon, postpone, release or waive with respect to all or any part of any land any special lien conferred by this Act.

**7.—**(1) Every person who knowingly contravenes any <sup>Offence</sup> provision of this Act or who knowingly makes an affidavit required by this Act that falsely discloses the value of the consideration for any conveyance of land or falsely states that a person who is a non-resident person is not a non-resident person, is guilty of an offence and on summary conviction is liable to a fine of not less than the amount of tax that was not paid to the collector as provided for in this Act plus an amount of not less than \$50 and not more than \$1,000.

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance <sup>Compliance how proved</sup> on the part of the Minister with this Act as well as the failure of any person to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue.

(3) An information in respect of an offence under this Act shall be laid within six years of the time when the <sup>Information when to be laid</sup> matter of the information arose.

## Refund

**8.—**(1) Where a person has paid an amount under this Act as tax that is not payable as tax under this Act, the Minister may, upon receipt of satisfactory evidence that the amount was wrongly paid, authorize the Treasurer to refund such amount or any part thereof, but no refund shall be made unless it is applied for within three years after the date of the payment of any amount that is alleged not to have been payable as tax under this Act.

## Idem

(2) Where a conveyance has been tendered for registration that conveys land both to non-resident persons and to persons who are not non-resident persons, the Minister may refund to the persons who are not non-resident persons an amount equal to the difference between,

- (a) the amount that would result from the application of the rates of tax in subsection 1 of section 2 to the value of the consideration attributable in the opinion of the Minister to the land conveyed to persons who are not non-resident persons; and
- (b) the amount of tax paid on the value of the consideration attributable in the opinion of the Minister to land conveyed to persons who are not non-resident persons,

but no refund under this subsection shall be made if the land is held in joint tenancy by the non-resident person and the persons who are not non-resident persons or if the Minister is of the opinion that the land conveyed to persons who are not non-resident persons cannot readily be distinguished from the land conveyed to non-resident persons.

## Investigation

**9.—**(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or where anything is done in connection with any business or where any books or records are or should be kept and,

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or to the amount of tax payable under this Act;



- (b) examine property described in any conveyance or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of any affidavit required by this Act or in ascertaining the information that is or should be in the books or records or in such affidavit, or the amount of any tax payable under this Act;
- (c) require any officer, director, agent or representative of a transferee a conveyance to whom has been registered as a result of which there may be a possible liability to pay tax under this Act, and any person on the premises to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration and, for that purpose, he may require such person to attend at the premises or place with him; and
- (d) if during the course of any audit or examination it appears to him that there has been a violation of this Act or the regulations made under this Act, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

(2) The Minister may, for any purpose relating to the <sup>idem</sup> administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person any information or additional information, or the production, or production on oath, of any books, letters, accounts, invoices, statements (financial or otherwise) or other documents within such reasonable time as is stipulated therein, provided that, in the opinion of the Minister or of the person authorized by him, it is necessary to make the demand in order to determine the liability or possible liability to tax under this Act.

(3) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may make or cause to be made one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy

made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

**Compliance** (4) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do or shall prevent or attempt to prevent any person doing any such thing, and notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do.

**Offence** (5) Every person who has failed to comply with or has contravened this section is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to a fine of \$25 for each day during which the default continues.

**Form of affidavit** **10.** Until a different form is prescribed, the form of affidavit prescribed by Ontario Regulation 251/73 made under *The Land Transfer Tax Act* shall be the form of affidavit required by subsection 1 of section 4.

R.S.O. 1970,  
c. 235

**Administration of oaths** **11.** A person authorized to administer an oath under *The Land Titles Act* or *The Registry Act* may administer an oath for any of the purposes of this Act.

R.S.O. 1970,  
cc. 234, 409

**Assessment** **12.—(1)** Where any person responsible for the payment of tax fails to pay it as required under this Act, the Minister may make an assessment of the tax for which such person is responsible and which has not been paid.

**Notice of assessment** (2) Where the Minister has made an assessment under subsection 1, he shall send by mail or by registered mail or deliver by personal service a notice of assessment to the person so assessed, and the amount of the assessment shall be remitted to the Minister by the person so assessed within thirty days from the date of mailing or delivery of the notice of assessment.

**Idem** (3) Where the Minister has made an assessment under subsection 1, the notice of assessment may provide that the amount assessed is payable forthwith.

**Assessment from time to time** (4) The Minister may, at any time he considers reasonable, assess or reassess any tax payable by any person under this Act.

(5) Where it appears from an inspection, audit or examination of the books of account, records or documents of any person that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate the tax payable in such manner and form and by such procedure as the Minister considers adequate and expedient, and the Minister shall assess the amount of the tax. Assessment on inspection

(6) The Minister shall send by mail or by registered mail or deliver by personal service a notice of the assessment made under subsection 4 or 5 to the person so assessed at his latest known address, and the notice may provide that the amount assessed is payable forthwith. Notice of assessment under suba 4 or 5

(7) Liability for tax is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made. Liability to tax not affected

(8) The Minister is not bound by any information delivered by or on behalf of any person responsible for the payment of the tax and may, notwithstanding any information that has been delivered or if no information has been delivered, assess the tax payable under this Act. Minister not bound by information

(9) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. Assessment valid and binding

(10) The amount of any assessment is payable within the time required by the notice of assessment whether or not an objection or appeal from the assessment is made or taken. Idem

13.—(1) Where a person objects to an assessment made under section 12 he may, within ninety days after the day of mailing or delivery by personal service of the notice of assessment, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. Notice of objection

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. Service

(3) Upon receipt of a notice of objection, the Minister shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, and he shall thereupon notify the person who has made the objection of his action by registered mail. Reconsideration



## Appeal

14.—(1) After the Minister has given the notification required by subsection 3 of section 13, a person who has served notice of objection under section 13 may appeal to the Supreme Court to have the assessment vacated or varied or reassessed, but no appeal under this section shall be instituted after the expiration of ninety days from the day on which notice has been mailed to such person under subsection 3 of section 13 and an appeal under this section shall not be made to the Divisional Court.

Appeal,  
how  
instituted

(2) An appeal to the Supreme Court shall be instituted by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or with the Local Registrar of the Supreme Court for the county, district or judicial district in which is situate the designated land the tax imposed on which is under appeal.

## Service

(3) A notice of appeal shall be served on the Minister by being sent by registered mail addressed to the Minister.

Contents  
of notice of  
appeal

(4) The person appealing shall set out in his notice of appeal a statement of the allegations of fact and the statutory provisions and reasons that he intends to submit in support of his appeal.

Reply to  
notice of  
appeal

(5) After the service on him of a notice of appeal under this section, the Minister shall with all due despatch serve on the person appealing and file in the Supreme Court where the notice of appeal was filed a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as he considers relevant.

Matter  
deemed  
action

(6) Upon the filing in the Supreme Court of the material referred to in subsection 5, the matter shall be deemed to be an action in the court, and the practice and procedure of the court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter that is deemed to be an action under this subsection, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court.

Disposition  
of appeal

(7) The court may dispose of an appeal by allowing it, by dismissing it, or by allowing it in part and directing the Minister to vacate the assessment, vary the assessment or reconsider the assessment and reassess as indicated by the judgment of the court.



(8) In delivering judgment disposing of an appeal, the court may order payment or refund of tax by the appellant or by the Treasurer, as the case may be, and may make such order as to costs as is considered proper. Idem

(9) No assessment shall be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of any person in the observance of any directory provision of this Act. Irregularities

(10) The time within which a notice of objection under subsection 1 of section 13 or a notice of appeal under subsection 1 of this section is to be served may be extended by the Minister if application for extension is made before expiration of the time for service of the notice of objection or notice of appeal, as the case may be. Extension of time

**15.**—(1) Where the tax imposed by this Act is not paid at the time provided for, interest on the unpaid tax shall be paid to the Treasurer at the rate of 9 per cent per annum or at such other rate as may be prescribed by the Lieutenant Governor in Council by regulation but no interest is payable for any period of time prior to the day upon which this Act receives Royal Assent. Interest on unpaid tax

(2) Any payment received by the Treasurer or a collector on account of any tax under this Act shall first be applied to any interest payable on the tax with respect to which the payment is made, but this subsection does not apply to payments on account of any fine or penalty payable under this Act. Application of payment

**16.**—(1) Where tax has been paid or may be payable on the registration of a conveyance of land to a non-resident person, and that non-resident person satisfies the Minister that the land was or is to be acquired for the purpose of residential, commercial or industrial development and for resale to persons who are not non-resident persons, the Minister may, with the approval of the Lieutenant Governor in Council, defer the payment of the tax, or remit the tax paid, on such conditions as to the use and development of the land or otherwise as are considered advisable and sufficient to ensure the development of the land as proposed and its conveyance to persons who are not non-resident persons, and any tax deferred or remitted under this subsection constitutes a first lien and charge in favour of Her Majesty in right of Ontario on the land so acquired or to be acquired, and the lien and charge shall be effective upon registration by the Minister of a notice of such lien and charge, and the Minister may discharge the lien and charge in Deferral or remission of tax on non-residents

whole or in part as the conditions that he has imposed are fulfilled.

Idem

(2) A deferral or remission under subsection 1, or a rebate under subsection 4, may not exceed the amount by which the rate of tax imposed by subsection 2 of section 2 exceeds the rate of tax imposed by subsection 1 of section 2, but may otherwise be for all or any part of the tax.

Deferred  
tax  
cancelled

(3) Where tax is deferred under subsection 1 upon conditions that are fulfilled, the amount of the tax so deferred is thereupon cancelled and no longer owing as tax under this Act, and where the conditions upon which any tax has been remitted under subsection 1 are not fulfilled, the tax so remitted thereupon becomes payable.

Rebate  
after  
foreclosure

(4) Where tax is paid under subsection 2 of section 2 as the result of the tender for registration of a final order of foreclosure under a mortgage or charge affecting land, and where the mortgagee or chargee who acquires the beneficial interest in the land by virtue of the final order of foreclosure sells, within three years after the date on which the final order of foreclosure was given, all or any part of the land so acquired to a person who is not a non-resident person, the Minister may, subject to subsection 2, rebate to the mortgagee or chargee the tax that was paid on the tender for registration of the final order of foreclosure and that is, in the opinion of the Minister, referable to the value of the consideration for the final order of foreclosure attributable to the portion of the land sold, and in addition to the amount of the rebate, the Minister may authorize payment to the mortgagee or chargee to whom the rebate is made of interest on the amount rebated at the rate of 4 per cent per annum or at such other rate as may be prescribed by the Lieutenant Governor in Council by regulation.

When tax  
not payable  
under this Act

**17. Where a conveyance is tendered for registration,**

- (a) after the 9th day of April, 1974 and before the 16th day of May, 1974, and is the result of an agreement that is proved to the satisfaction of the Minister to have been reduced to writing and executed by the parties to it before the 10th day of April, 1974; or
- (b) after the 15th day of May, 1974, and is the result of an agreement that is proved to the satisfaction of the Minister to have been reduced to writing and executed by the parties to it before the 10th day of

April, 1974 and that has been filed with the Minister before the 16th day of May, 1974,

the tax payable by the person tendering the conveyance for registration shall be the tax provided for in *The Land Transfer Tax Act*, as amended by *The Land Transfer Tax Amendment Act, 1972*, notwithstanding the repeal of those Acts, and the tax provided for in this Act does not apply to the person tendering the conveyance for registration.

R.S.O. 1970,  
c. 235  
1972, c. 15

**18.—(1)** The Minister may make regulations,

Regula-  
tions

- (a) prescribing any form required by this Act or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any prescribed form shall be completed and what information it shall contain;
- (b) repealing Form 1 and substituting another Form therefor.

**(2)** The Lieutenant Governor in Council may make regulations,

Idem

- (a) exempting from tax any person tendering for registration any class of conveyance to which it is determined that this Act was not intended to apply, or any conveyance to persons prescribed for the purpose of this clause;
- (b) providing for the collection of tax, the appointment of persons other than collectors to collect the tax, and establishing procedures for the collection of the tax;
- (c) providing for the refund of tax in whole or in part owing to special circumstances, and prescribing the terms and conditions under which such refund may be made;
- (d) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
- (e) providing for the method of calculating and ascertaining the value of the consideration in any case or class of cases;
- (f) authorizing any person or persons, on such conditions and subject to such rules as may be specified,



to exempt from the tax or any part thereof imposed by subsection 2 of section 2, or to refund such tax or any part thereof to, any person tendering for registration any class of conveyance to which it is determined that this Act was not intended to apply, or any conveyance to any non-resident person;

(g) providing for the payment of interest on any refund or rebate of tax authorized by this Act or the regulations, and prescribing the rate of such interest and the method by which it is to be calculated;

(h) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Idem (3) A regulation is, if it so provides, effective with reference to a period before it was filed.

Acts repealed **19.** *The Land Transfer Tax Act*, being chapter 235 of the Revised Statutes of Ontario, 1970, and *The Land Transfer Tax Amendment Act*, 1972, being chapter 15, are repealed.

Commencement **20.**—(1) Upon receiving Royal Assent, this Act shall be deemed to have come into force on the 10th day of April, 1974, and the tax imposed by this Act shall be levied and paid as herein provided notwithstanding that this Act receives Royal Assent after the 10th day of April, 1974.

Application (2) Where any act or thing that is required by this Act is done or omitted to be done on or after the 10th day of April, 1974 and before the day upon which this Act receives Royal Assent, the fact that this Act was not in force at the time the act or thing was done or omitted to be done shall not relieve any person from the liability to tax imposed by this Act or from liability to any penalty or offence provided for in this Act.

Short title **21.** This Act may be cited as *The Land Transfer Tax Act*, 1974.

**Form 1**

*The Land Transfer Tax Act*, 1974

**AFFIDAVIT OF RESIDENCE**

IN THE MATTER OF THE CONVEYANCE OF.....



(insert brief description of land)

To .....  
(insert names of all transferees)

I ..... of  
(print name)

(print address)

MAKE OATH AND SAY THAT

1. I am (place a clear mark within the square opposite that one of the following paragraphs that describes the capacity of the deponent)

- (a) A person to whom or in trust for whom the land conveyed in the above-described conveyance is being conveyed ☐
- (b) One of the trustees named in the above-described conveyance to whom the land is being conveyed ☐
- (c) A transferee named in the above-described conveyance ☐
- (d) An agent authorized in writing to act for ☐

..... who is a person described in  
(insert name of principal)

paragraph.....above (insert only one of paragraph  
(a), (b), or (c) above

- (e) The solicitor acting in this matter for

.....who is a person described in  
(insert name of client)

paragraph.....above (insert only one of paragraph (a),  
(b) or (c) above);

and as such, I have personal knowledge of the facts herein deposed to

2. None of the transferees to whom or in trust for whom the land conveyed in the above-described conveyance is being conveyed is within the meaning of the Act, a non-resident person (strike out this paragraph if inapplicable).
3. The following persons to whom or in trust for whom the land conveyed in the above-described conveyance is being conveyed are non-resident persons within the meaning of the Act

(insert the name and place of residence—or in the case of a corporation, the place of incorporation—of any transferee who is a non-resident person. If space is insufficient, attach a list of those transferees who are non-resident persons.)

4. I have read and considered the definitions of "non-resident corporation" and "non-resident person" set out respectively in clauses *f* and *g* of subsection 1 of section 1 of the Act.

Sworn before me

in the

of

this

day of 19

A Commissioner, etc.



*1st Reading*

April 9th, 1974

*2nd Reading*

April 22nd, 1974

*3rd Reading*

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THE HON. A. K. MEEN  
Minister of Revenue

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*(Reprinted as amended by the  
Committee of the Whole House*



# **BILL 26**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **The Land Transfer Tax Act, 1974**

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**THE HON. A. K. MEEN**  
Minister of Revenue

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**



## The Land Transfer Tax Act, 1974

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1.—(1) In this Act,

Interpre-  
tation

- (a) "collector" means any land registrar to whom any conveyance to which this Act applies is tendered for registration;
- (b) "convey" includes the granting, assigning, releasing, surrendering, leasing or disposing of land in Ontario, agreeing to sell land in Ontario, or the giving of an option upon or with respect to any land in Ontario, whether the effect of any of the foregoing is to bring into existence an interest of any kind in land or is only for the purpose of giving effect to or formal recognition to any interest of whatsoever kind that theretofore existed in land, but "convey" does not include any transfer of land for the purpose only of securing a debt or loan, or any transfer by a creditor for the purpose only of returning land that had been used as security for a debt or loan, or any transfer of land by virtue of which there is a change in the legal ownership of the land without any change in its beneficial ownership;
- (c) "conveyance" includes any instrument or writing by which land is conveyed and includes a final order of foreclosure under any mortgage or charge affecting land;
- (d) "land" includes lands, tenements and hereditaments and any estate, right or interest therein, a leasehold interest or estate, the interest of an optionee, the interest of a purchaser under an agreement to sell land, or goodwill attributable to the location

of land or to the existence thereon of any building or fixture, and fixtures;

(e) "Minister" means the Minister of Revenue;

(f) "non-resident corporation" means a corporation incorporated, formed or otherwise organized in Canada or elsewhere,

(i) that has issued or allotted shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by one or more individuals who are non-resident persons, or by one or more corporations incorporated, formed or organized elsewhere than in Canada, or by any combination of such individuals and corporations,

(ii) that has issued or allotted shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by any one individual who is a non-resident person, or by any one corporation incorporated, formed, or organized elsewhere than in Canada, but this subclause does not apply where it is established to the satisfaction of the Minister that such individual or corporation does not in fact exercise control, directly or indirectly, over the corporation that has issued or allotted to such individual or corporation shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation,

(iii) one-half or more of the directors of which, or of the persons occupying the position of director by whatever name called, are individuals who are non-resident persons,

(iv) without share capital and one-half or more of the members of which are non-resident persons, or

(v) that is controlled directly or indirectly by one or more non-resident persons, including a non-resident corporation within the definition contained in the provisions of this clause other than this subclause;



(g) "non-resident person" means,

- (i) an individual who is not ordinarily resident in Canada or who, if ordinarily resident in Canada, is neither a Canadian citizen nor an individual who has been lawfully admitted to Canada for permanent residence in Canada,
- (ii) a partnership, syndicate, association or other organization of whatsoever kind of which one-half or more of the members are non-resident persons within the meaning of subclause i, iii or iv or in which interests representing in value 50 per cent or more of the total value of the partnership property are beneficially owned by non-resident persons within the meaning of subclause i, iii or iv,
- (iii) a trust established by a non-resident person within the meaning of subclause i, ii or iv or in which non-resident persons within the meaning of subclause i, ii or iv have 50 per cent or more of the beneficial interests in the corpus of the trust or in the income arising therefrom, and "trust" includes the trustees under such a trust in their capacity as the trustees thereof, or

(iv) a non-resident corporation;

(h) "prescribed" means prescribed by regulations made under this Act;

(i) "tax" means the tax imposed by this Act.

(j) "transferee" includes a person to whom land is conveyed and any person whose interest in land is increased, created or given effect to as the result of a conveyance;

(k) "transferor" includes any person making a conveyance of land to a transferee;

(l) "Treasurer" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs.

(m) "value of the consideration" includes,

- (i) moneys paid in cash,

- (ii) the value of any property or security exchanged for the conveyance of land,
- (iii) the value of any encumbrance, charge or other liability to which the land being conveyed is subject at the time of registration, or
- (iv) in the case of a final order of foreclosure under any mortgage or charge affecting land, the amount owed under the mortgage at the time it was foreclosed, including principal, interest and all costs and expenses, other than municipal taxes, secured by the mortgage and owing at that time.

Control  
defined

(2) For the purposes of clause *f* of subsection 1, "control" means control by another corporation, individual or trust that is in fact exercising effective control either directly or indirectly and either through the holding of shares of the corporation or of any other corporation or through the holding of a significant portion of any class of shares of the corporation or of the outstanding debt of the corporation or of any shareholder or member of the corporation, or by any other means whether of a like or different nature.

Ordinarily  
resident  
defined

(3) For the purpose of clause *g* of subsection 1, an individual shall be considered to be ordinarily resident in Canada if, at the time the expression is being applied,

- (a) he has been lawfully admitted to Canada for permanent residence in Canada;
- (b) he has sojourned in Canada during the next preceding 24 months for a period of, or periods the aggregate of which is, 366 days or more;
- (c) he is a member of the Canadian Forces required to reside outside Canada;
- (d) he is an ambassador, minister, high commissioner, officer or servant of Canada, or is an agent-general, officer or servant of a province of Canada, and resided in Canada immediately prior to appointment or employment by Canada or a province of Canada or is entitled to receive representation allowances;
- (e) he is performing services in a country other than Canada under an international development assistance program of the Government of Canada that is

prescribed for the purposes of paragraph *d* of subsection 1 of section 250 of the *Income Tax Act* (Canada), <sup>1970-71, c. 63 (Can.)</sup> and resided in Canada at any time in the three month period preceding the day on which such services commenced; or

- (f) he resides outside Canada and is the spouse or child of, and is living with, an individual described in clause *c*, *d* or *e*.

2.—(1) Every person who tenders for registration in Ontario a conveyance whereby any land is conveyed to or in trust for any transferee who is not a non-resident person shall, before the conveyance is registered, pay a tax computed at the rate of three-tenths of 1 per cent of the value of the consideration for the conveyance up to and including \$35,000, and at the rate of six-tenths of 1 per cent upon the remainder of the value of the consideration. <sup>Imposition of tax</sup>

(2) Every person who tenders for registration in Ontario a conveyance whereby any land is conveyed to or in trust for any transferee who is a non-resident person shall, before the conveyance is registered, pay a tax computed at the rate of 20 per cent of the value of the consideration for the conveyance. <sup>Idem</sup>

(3) Where the same conveyance may be registered in more than one office under the registry system, in more than one office under the land titles system, or under both the registry system and the land titles system, the tax is payable only once in respect of the first of such conveyances tendered for registration. <sup>Tax to be payable on one registration only</sup>

(4) No tax is payable where the only transferee in a conveyance that is tendered for registration is the Crown or a Crown agency within the meaning of *The Crown Agency Act*. <sup>Exemption R.S.O. 1970, c. 109</sup>

(5) Where the Minister or some person authorized by him in writing to do so has indicated over his signature upon any conveyance that such tax as is payable has been paid, the conveyance may be registered without the payment of tax to the collector and without the production of the affidavits required by this Act, but the Minister or a person acting under his authority shall make the certification provided for by this subsection only when he is satisfied that all tax is paid or that security for the payment of the tax has been furnished to the Minister or to a collector in a form and of a kind that is acceptable to the Minister. <sup>Minister's certification</sup>



Returns by  
collector

3. Every collector shall, in the first week of each month or at such other time as the Minister may from time to time require in writing, send to the Minister a statement of the amount of tax collected by him during the previous month or during such other period of time as the Minister shall in writing specify, and the collector shall pay over the amount of such tax to the Treasurer for the uses of Ontario.

Contents  
of  
affidavit  
as to  
consideration

4.—(1) There shall be filed with the collector and attached by him to the conveyance to which it relates an affidavit in the prescribed form setting out the true value of the consideration for the conveyance, the true amount in cash and the value of any property or security included in the value of the consideration, the amount or value of any lien or encumbrance subject to which the conveyance was made, and such other information as the Minister may prescribe to be disclosed in the affidavit.

Affidavit  
by whom  
to be made

(2) The affidavit required by subsection 1 may be made by the person making the conveyance or by the transferee or by any person acting for either of them under a power of attorney or as an agent authorized in writing so to act, or by the solicitor for the person making the conveyance or for the transferee, or by some other person authorized in writing by the Minister to make the affidavit.

Affidavit  
as to  
residence

(3) In addition to the affidavit required by subsection 1, there shall be filed with the collector and attached by him to the conveyance to which it relates an affidavit in Form 1 or in such other form as is prescribed, and the affidavit shall be made by,

- (a) the transferee to whom or in trust for whom any land is conveyed;
- (b) a trustee to whom any land is conveyed and who is shown as a trustee in the conveyance;
- (c) the transferee named in the conveyance;
- (d) an agent of any person referred to in clause *a*, *b* or *c*, if the agent is authorized in writing to make the affidavit; or
- (e) the solicitor acting in the transaction as the solicitor for any person referred to in clause *a*, *b* or *c*,

and such affidavit shall state whether the transferee to whom the land is being conveyed is a non-resident person or the trustee for a non-resident person, and shall state such other information as is required in order to complete the affidavit.



(4) The affidavit required by subsection 1 or 3 shall state that the person making it has personal knowledge of the facts stated in it, and there shall be filed with the affidavit the power of attorney or written authorization, if any, referred to in subsection 2 or 3.

Affidavits  
what to  
contain

(5) If the collector is not satisfied that the affidavit required by subsection 1 sets out the true value of the consideration for the conveyance, he may refuse to register the conveyance to which the affidavit relates until the Minister has signified over his signature that he is satisfied that the value of the consideration stated in the affidavit is the true value of the consideration.

Affidavit  
to be  
referred to  
Minister

(6) Where a conveyance is tendered for registration without the affidavit required by subsection 3, tax is payable at the rate provided in subsection 2 of section 2, and the collector shall not register the conveyance until such tax is paid, but if it is subsequently established to the satisfaction of the Minister that, had the affidavit required by subsection 3 been furnished to the collector, tax would have been payable as provided in subsection 1 of section 2, the Minister may refund the amount paid under this subsection in excess of the tax provided for in subsection 1 of section 2.

Tax payable  
when affidavit  
under subs. 3  
not furnished

5.—(1) Where the right of the collector to require payment of the tax is disputed by the person tendering a conveyance for registration, the tax may be paid under protest and the collector shall give a receipt in writing signed by him for the amount paid and stating that it was paid under protest, and he shall thereupon refer the matter for the decision of the Minister or of such official as the Minister appoints, who may order the refund of the tax or any part thereof to the person who paid it.

Payment  
of tax  
under  
protest

(2) In any dispute over the liability to tax of any person, the Minister may, after the tax has been paid, and if the dispute involves the interpretation of a provision of this Act, or involves an issue of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Supreme Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined.

Determina-  
tion of  
issues of  
law

6.—(1) Upon this Act receiving Royal Assent, every tax payable under this Act as a result of the tender of any

Lien  
for  
tax

conveyance for registration after the 9th day of April, 1974 and before the day on which this Act receives Royal Assent that was not paid as herein provided for shall form a special lien upon the land conveyed by any such conveyance, and the special lien shall be in favour of Her Majesty in right of Ontario and has complete priority over every encumbrance of whatsoever kind that affects the land and that arose or came into existence on or after the 9th day of April, 1974 as part of or subsequent to the transaction or series of transactions that resulted in the tender for registration of the conveyance evidencing or carrying into effect the transaction or series of transactions.

Expiry  
of  
lien

(2) The special lien conferred on the Crown by this section expires on the 30th day of September, 1974, unless prior to the expiry of the special lien, there is registered against the land affected by the special lien a notice of lien in prescribed form.

Notice of  
intended  
sale

(3) Before the issue of a warrant under subsection 4, the Minister shall send by mail or by registered mail, or deliver by personal service, a notice to all persons who have an interest, encumbrance or charge registered under the land titles system or the registry system against the land for the sale of which the warrant is to be issued that he intends to have the land that is subject to the special lien conferred by this Act sold pursuant to subsection 4, and such notice shall be given not less than thirty days or more than sixty days before the issue of the warrant, and shall be sent, in the case of a notice sent by mail, to the latest known address of each person to whom notice is to be given and to such other address as, in the opinion of the Minister, may be more likely to bring the notice to the person's attention.

Recovery  
of lien  
by sale

(4) Subject to subsection 3, the Minister may, by his warrant directed to the sheriff of the county, district or judicial district in which is situate any land that is subject to the special lien conferred by this Act, require the sheriff to sell the land within six months or such longer period as is stated in the warrant, and the sheriff, upon receiving the warrant, shall proceed within the period specified to sell the land in the same manner as for a sale under a writ of execution issued out of the Supreme Court, and any person purchasing from the sheriff at such a sale shall take good title to the land free and clear of all encumbrances and claims of any kind of all persons whatsoever that do not have priority over the special lien but subject to all the rights and encumbrances of persons who have an interest in the land that have priority over the special lien.



(5) The proceeds of sale received by the sheriff from a sale <sup>item</sup> under a warrant authorized by subsection 4 shall be applied first to pay the costs and expenses of the sheriff in conducting the sale and next in payment of the amount of tax that was a special lien on the land conferred by this Act, and any surplus thereafter remaining shall be paid, in order of their priorities, to those whose rights in the land were subject to the special lien, and, if the order of those priorities cannot be established by the sheriff, shall be paid into court to be dealt with as the court shall direct.

(6) At any time prior to a sale authorized by subsection 4 <sup>Right to discharge lien</sup> any person interested in the land affected by the special lien conferred by this Act may pay to the Minister a sum sufficient to discharge the special lien, and if the special lien is discharged by some person having an encumbrance against the land, the amount accepted by the Minister may be added to that person's encumbrance and shall, for all purposes and in every court, thereafter be treated as part of the encumbrance and shall bear interest at the rate provided for in the encumbrance and shall be collectable in the same way as the encumbrance is enforceable.

(7) Upon such conditions as he may impose, the Minister <sup>Waiver of lien</sup> may abandon, postpone, release or waive with respect to all or any part of any land any special lien conferred by this Act.

7.—(1) Every person who knowingly contravenes any <sup>Offence</sup> provision of this Act or who knowingly makes an affidavit required by this Act that falsely discloses the value of the consideration for any conveyance of land or falsely states that a person who is a non-resident person is not a non-resident person, is guilty of an offence and on summary conviction is liable to a fine of not less than the amount of tax that was not paid to the collector as provided for in this Act plus an amount of not less than \$50 and not more than \$1,000.

(2) For the purpose of any proceeding taken under this <sup>Compliance how proved</sup> Act, the facts necessary to establish compliance on the part of the Minister with this Act as well as the failure of any person to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue.

(3) An information in respect of an offence under this <sup>Information where to be laid</sup> Act shall be laid within six years of the time when the matter of the information arose.

Refund

8.—(1) Where a person has paid an amount under this Act as tax that is not payable as tax under this Act, the Minister may, upon receipt of satisfactory evidence that the amount was wrongly paid, authorize the Treasurer to refund such amount or any part thereof, but no refund shall be made unless it is applied for within three years after the date of the payment of any amount that is alleged not to have been payable as tax under this Act.

Idem

(2) Where a conveyance has been tendered for registration that conveys land both to non-resident persons and to persons who are not non-resident persons, the Minister may refund to the persons who are not non-resident persons an amount equal to the difference between,

- (a) the amount that would result from the application of the rates of tax in subsection 1 of section 2 to the value of the consideration attributable in the opinion of the Minister to the land conveyed to persons who are not non-resident persons; and
- (b) the amount of tax paid on the value of the consideration attributable in the opinion of the Minister to land conveyed to persons who are not non-resident persons,

but no refund under this subsection shall be made if the land is held in joint tenancy by the non-resident person and the persons who are not non-resident persons or if the Minister is of the opinion that the land conveyed to persons who are not non-resident persons cannot readily be distinguished from the land conveyed to non-resident persons.

Investigation

9.—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or where anything is done in connection with any business or where any books or records are or should be kept and,

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or to the amount of tax payable under this Act;



- (b) examine property described in any conveyance or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of any affidavit required by this Act or in ascertaining the information that is or should be in the books or records or in such affidavit, or the amount of any tax payable under this Act;
- (c) require any officer, director, agent or representative of a transferee a conveyance to whom has been registered as a result of which there may be a possible liability to pay tax under this Act, and any person on the premises to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration and, for that purpose, he may require such person to attend at the premises or place with him; and
- (d) if during the course of any audit or examination it appears to him that there has been a violation of this Act or the regulations made under this Act, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

(2) The Minister may, for any purpose relating to the<sup>idem</sup> administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person any information or additional information, or the production, or production on oath, of any books, letters, accounts, invoices, statements (financial or otherwise) or other documents within such reasonable time as is stipulated therein, provided that, in the opinion of the Minister or of the person authorized by him, it is necessary to make the demand in order to determine the liability or possible liability to tax under this Act.

(3) Where a book, record or other document has been<sup>Copies as evidence</sup> seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may make or cause to be made one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy

made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

**Compliance** (4) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do or shall prevent or attempt to prevent any person doing any such thing, and notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do.

**Offence** (5) Every person who has failed to comply with or has contravened this section is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to a fine of \$25 for each day during which the default continues.

**Form of affidavit**

R.S.O. 1970,  
c. 235

**10.** Until a different form is prescribed, the form of affidavit prescribed by Ontario Regulation 251/73 made under *The Land Transfer Tax Act* shall be the form of affidavit required by subsection 1 of section 4.

**Adminis-  
tration of  
oaths**

R.S.O. 1970,  
cc. 234, 409

**11.** A person authorized to administer an oath under *The Land Titles Act* or *The Registry Act* may administer an oath for any of the purposes of this Act.

**Assessment**

**12.—(1)** Where any person responsible for the payment of tax fails to pay it as required under this Act, the Minister may make an assessment of the tax for which such person is responsible and which has not been paid.

**Notice of  
assessment**

(2) Where the Minister has made an assessment under subsection 1, he shall send by mail or by registered mail or deliver by personal service a notice of assessment to the person so assessed, and the amount of the assessment shall be remitted to the Minister by the person so assessed within thirty days from the date of mailing or delivery of the notice of assessment.

**Idem**

(3) Where the Minister has made an assessment under subsection 1, the notice of assessment may provide that the amount assessed is payable forthwith.

**Assessment  
from time  
to time**

(4) The Minister may, at any time he considers reasonable, assess or reassess any tax payable by any person under this Act.

(5) Where it appears from an inspection, audit or examination of the books of account, records or documents of any person that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate the tax payable in such manner and form and by such procedure as the Minister considers adequate and expedient, and the Minister shall assess the amount of the tax. Assessment on inspection

(6) The Minister shall send by mail or by registered mail or deliver by personal service a notice of the assessment made under subsection 4 or 5 to the person so assessed at his latest known address, and the notice may provide that the amount assessed is payable forthwith. Notice of assessment under subs 4 or 5

(7) Liability for tax is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made. Liability to tax not affected

(8) The Minister is not bound by any information delivered by or on behalf of any person responsible for the payment of the tax and may, notwithstanding any information that has been delivered or if no information has been delivered, assess the tax payable under this Act. Minister not bound by information

(9) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. Assessment valid and binding

(10) The amount of any assessment is payable within the time required by the notice of assessment whether or not an objection or appeal from the assessment is made or taken. Idem

**13.**—(1) Where a person objects to an assessment made under section 12 he may, within ninety days after the day of mailing or delivery by personal service of the notice of assessment, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. Notice of objection

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. Service

(3) Upon receipt of a notice of objection, the Minister shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, and he shall thereupon notify the person who has made the objection of his action by registered mail. Reconsideration



## Appeal

14.—(1) After the Minister has given the notification required by subsection 3 of section 13, a person who has served notice of objection under section 13 may appeal to the Supreme Court to have the assessment vacated or varied or reassessed, but no appeal under this section shall be instituted after the expiration of ninety days from the day on which notice has been mailed to such person under subsection 3 of section 13 and an appeal under this section shall not be made to the Divisional Court.

Appeal,  
how  
instituted

(2) An appeal to the Supreme Court shall be instituted by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or with the Local Registrar of the Supreme Court for the county, district or judicial district in which is situate the designated land the tax imposed on which is under appeal.

## Service

(3) A notice of appeal shall be served on the Minister by being sent by registered mail addressed to the Minister.

Contents  
of notice of  
appeal

(4) The person appealing shall set out in his notice of appeal a statement of the allegations of fact and the statutory provisions and reasons that he intends to submit in support of his appeal.

Reply to  
notice of  
appeal

(5) After the service on him of a notice of appeal under this section, the Minister shall with all due despatch serve on the person appealing and file in the Supreme Court where the notice of appeal was filed a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as he considers relevant.

Matter  
deemed  
action

(6) Upon the filing in the Supreme Court of the material referred to in subsection 5, the matter shall be deemed to be an action in the court, and the practice and procedure of the court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter that is deemed to be an action under this subsection, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court.

Disposition  
of appeal

(7) The court may dispose of an appeal by allowing it, by dismissing it, or by allowing it in part and directing the Minister to vacate the assessment, vary the assessment or reconsider the assessment and reassess as indicated by the judgment of the court.



(8) In delivering judgment disposing of an appeal, the court may order payment or refund of tax by the appellant or by the Treasurer, as the case may be, and may make such order as to costs as is considered proper.

(9) No assessment shall be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of any person in the observance of any directory provision of this Act.

(10) The time within which a notice of objection under subsection 1 of section 13 or a notice of appeal under subsection 1 of this section is to be served may be extended by the Minister if application for extension is made before expiration of the time for service of the notice of objection or notice of appeal, as the case may be.

**15.**—(1) Where the tax imposed by this Act is not paid at the time provided for, interest on the unpaid tax shall be paid to the Treasurer at the rate of 9 per cent per annum or at such other rate as may be prescribed by the Lieutenant Governor in Council by regulation but no interest is payable for any period of time prior to the day upon which this Act receives Royal Assent.

(2) Any payment received by the Treasurer or a collector on account of any tax under this Act shall first be applied to any interest payable on the tax with respect to which the payment is made, but this subsection does not apply to payments on account of any fine or penalty payable under this Act.

**16.**—(1) Where tax has been paid or may be payable on the registration of a conveyance of land to a non-resident person, and that non-resident person satisfies the Minister that the land was or is to be acquired for the purpose of residential, commercial or industrial development and for resale to persons who are not non-resident persons, the Minister may, with the approval of the Lieutenant Governor in Council, defer the payment of the tax, or remit the tax paid, on such conditions as to the use and development of the land or otherwise as are considered advisable and sufficient to ensure the development of the land as proposed and its conveyance to persons who are not non-resident persons, and any tax deferred or remitted under this subsection constitutes a first lien and charge in favour of Her Majesty in right of Ontario on the land so acquired or to be acquired, and the lien and charge shall be effective upon registration by the Minister of a notice of such lien and charge, and the Minister may discharge the lien and charge in

whole or in part as the conditions that he has imposed are fulfilled.

Idem

(2) A deferral or remission under subsection 1, or a rebate under subsection 4, may not exceed the amount by which the rate of tax imposed by subsection 2 of section 2 exceeds the rate of tax imposed by subsection 1 of section 2, but may otherwise be for all or any part of the tax.

Deferred  
tax  
cancelled

(3) Where tax is deferred under subsection 1 upon conditions that are fulfilled, the amount of the tax so deferred is thereupon cancelled and no longer owing as tax under this Act, and where the conditions upon which any tax has been remitted under subsection 1 are not fulfilled, the tax so remitted thereupon becomes payable.

Rebate  
after  
foreclosure

(4) Where tax is paid under subsection 2 of section 2 as the result of the tender for registration of a final order of foreclosure under a mortgage or charge affecting land, and where the mortgagee or chargee who acquires the beneficial interest in the land by virtue of the final order of foreclosure sells, within three years after the date on which the final order of foreclosure was given, all or any part of the land so acquired to a person who is not a non-resident person, the Minister may, subject to subsection 2, rebate to the mortgagee or chargee the tax that was paid on the tender for registration of the final order of foreclosure and that is, in the opinion of the Minister, referable to the value of the consideration for the final order of foreclosure attributable to the portion of the land sold, and in addition to the amount of the rebate, the Minister may authorize payment to the mortgagee or chargee to whom the rebate is made of interest on the amount rebated at the rate of 4 per cent per annum or at such other rate as may be prescribed by the Lieutenant Governor in Council by regulation.

When tax  
not payable  
under this Act

**17.** Where a conveyance is tendered for registration,

- (a) after the 9th day of April, 1974 and before the 16th day of May, 1974, and is the result of an agreement that is proved to the satisfaction of the Minister to have been reduced to writing and executed by the parties to it before the 10th day of April, 1974; or
- (b) after the 15th day of May, 1974, and is the result of an agreement that is proved to the satisfaction of the Minister to have been reduced to writing and executed by the parties to it before the 10th day of

April, 1974 and that has been filed with the Minister before the 16th day of May, 1974,

the tax payable by the person tendering the conveyance for registration shall be the tax provided for in *The Land Transfer Tax Act*, as amended by *The Land Transfer Tax Amendment Act, 1972*, notwithstanding the repeal of those Acts, and the tax provided for in this Act does not apply to the person tendering the conveyance for registration.

R.S.O. 1970,  
c. 235  
1972, c. 15

**18.—(1)** The Minister may make regulations,

Regula-  
tions

- (a) prescribing any form required by this Act or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any prescribed form shall be completed and what information it shall contain;
- (b) repealing Form 1 and substituting another Form therefor.

**(2)** The Lieutenant Governor in Council may make regulations,

Idem

- (a) exempting from tax any person tendering for registration any class of conveyance to which it is determined that this Act was not intended to apply, or any conveyance to persons prescribed for the purpose of this clause;
- (b) providing for the collection of tax, the appointment of persons other than collectors to collect the tax, and establishing procedures for the collection of the tax;
- (c) providing for the refund of tax in whole or in part owing to special circumstances, and prescribing the terms and conditions under which such refund may be made;
- (d) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
- (e) providing for the method of calculating and ascertaining the value of the consideration in any case or class of cases;
- (f) authorizing any person or persons, on such conditions and subject to such rules as may be specified,



to exempt from the tax or any part thereof imposed by subsection 2 of section 2, or to refund such tax or any part thereof to, any person tendering for registration any class of conveyance to which it is determined that this Act was not intended to apply, or any conveyance to any non-resident person ;

(g) providing for the payment of interest on any refund or rebate of tax authorized by this Act or the regulations, and prescribing the rate of such interest and the method by which it is to be calculated ;

(h) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Idem (3) A regulation is, if it so provides, effective with reference to a period before it was filed.

Acts repealed **19.** *The Land Transfer Tax Act*, being chapter 235 of the Revised Statutes of Ontario, 1970, and *The Land Transfer Tax Amendment Act, 1972*, being chapter 15, are repealed.

Commence-ment **20.**—(1) Upon receiving Royal Assent, this Act shall be deemed to have come into force on the 10th day of April, 1974, and the tax imposed by this Act shall be levied and paid as herein provided notwithstanding that this Act receives Royal Assent after the 10th day of April, 1974.

Application (2) Where any act or thing that is required by this Act is done or omitted to be done on or after the 10th day of April, 1974 and before the day upon which this Act receives Royal Assent, the fact that this Act was not in force at the time the act or thing was done or omitted to be done shall not relieve any person from the liability to tax imposed by this Act or from liability to any penalty or offence provided for in this Act.

Short title **21.** This Act may be cited as *The Land Transfer Tax Act, 1974*.

# Form 1

*The Land Transfer Tax Act, 1974*

## AFFIDAVIT OF RESIDENCE

IN THE MATTER OF THE CONVEYANCE OF.....

.....



I ..... of .....  
(print name)

MAKE OATH AND SAY THAT

- (d) An agent authorized in writing to act for

paragraph.....above (insert only one of paragraph  
(a), (b), or (c) above

- .....who is a person described in  
(insert name of client)

paragraph.....above (insert only one of paragraph (a),  
(b) or (c) above);

2. None of the transferees to whom or in trust for whom the land conveyed in the above-described conveyance is being conveyed is, within the meaning of the Act, a non-resident person (strike out this paragraph if inapplicable).

(insert the name and place of residence—or in the case of a corporation, the place of incorporation—of any transferee who is a non-resident person. If space is insufficient, attach a list of those transferees who are non-resident persons.)

4. I have read and considered the definitions of "non-resident corporation" and "non-resident person" set out respectively in clauses *f* and *g* of subsection 1 of section 1 of the Act.

Sworn before me

in the

of

this

day of

19

A Commissioner, etc.



The Land Transfer Tax Act, 1974

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*1st Reading*

April 9th, 1974

*2nd Reading*

April 22nd, 1974

*3rd Reading*

April 26th, 1974

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THE HON. A. K. MEEN  
Minister of Revenue

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act to amend The Retail Sales Tax Act**

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**THE HON. A. K. MEEN  
Minister of Revenue**

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#### EXPLANATORY NOTES

This Bill is enacted to bring into force the changes to *The Retail Sales Tax Act* announced in the Budget on April 9th, 1974. In addition, two small housekeeping changes to the Act are enacted by this Bill.

SECTION 1. This section amends subsections 7 and 8 of section 2 of the Act to bring these provisions in line with administrative practice.

SECTION 2. This section amends subsection 1 of section 5 of the Act to provide for the exemptions announced in the Budget with respect to used clothing and used footwear sold by a religious, charitable, benevolent or non-profit organization, and footwear, personal hygiene and household products to be defined by the Minister by regulation.

BILL 27

1974

## An Act to amend The Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 7 of section 2 of *The Retail Sales Tax Act*, <sup>a. 2 (7),</sup> amended being chapter 415 of the Revised Statutes of Ontario, 1970, is amended by striking out "by the Treasurer of Ontario on receipt" in the fourth and fifth lines and inserting in lieu thereof "on receipt by the Minister".
- (2) Subsection 8 of the said section 2 is repealed and the <sup>a. 2 (8),</sup> re-enacted following substituted therefor:
  - (8) Where a person has paid an amount under this Act <sup>idem</sup> as tax that is not payable as tax under this Act, such amount may be refunded upon receipt by the Minister of satisfactory evidence that the amount was wrongfully paid.
- 2.—(1) Subsection 1 of section 5 of the said Act, as amended <sup>a. 5 (1),</sup> amended by the Statutes of Ontario, 1972, chapter 21, section 1, and 1973, chapter 23, section 4, is further amended by adding thereto the following paragraphs:
  20. used clothing or used footwear or a combination thereof sold by a religious, charitable, benevolent or non-profit organization in one transaction the total consideration for which does not exceed \$50.
  21. personal hygiene and household products, as defined by the Minister, purchased for household use and not for use in any commercial, industrial or institutional establishment;
  22. footwear, as defined by the Minister, the price of which does not exceed an amount determined by the Minister.

s. 5 (1),  
par. 42,  
amended

- (2) Paragraph 42 of subsection 1 of the said section 5 is amended by striking out "and children's footwear" in the first line.

s. 7,  
amended

3. Section 7 of the said Act is amended by adding thereto the following subsection:

Idem

(3a) Where it is shown to the satisfaction of the Minister that the tax calculated on the price of admission to a place of amusement, which is a community centre as defined in and for which aid has been granted under *The Community Centre Act*, at or in which an entertainment has been held by a municipality, was collected and paid to Her Majesty in right of Ontario in accordance with subsection 4 of section 2 and where the municipality files with the Minister a statement verified by affidavit, giving in detail all receipts and expense in connection with the entertainment and satisfies the Minister that the net proceeds were for the benefit of the municipality there may be paid to the municipality an amount equal to that proportion of the tax so collected and paid which the net proceeds from admissions received by the municipality bear to the gross amount received by the municipality as the price of admission to such place of amusement.

Commence-  
ment

4. This Act comes into force on the day it receives Royal Assent

Short title

5. This Act may be cited as *The Retail Sales Tax Amendment Act 1974*.



SECTION 3. The amendment amends section 7 of the Act by adding a subsection 3a which provides for a proportional rebate to municipalities of retail sales tax collected by them on their sales of admissions to entertainment held by them in community centres as defined in *The Community Centres Act*.





An Act to amend  
The Retail Sales Tax Act

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*1st Reading*

April 9th, 1974

*2nd Reading*

*3rd Reading*

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THE HON. A. K. MEEN  
Minister of Revenue

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*(Government Bill)*



# **BILL 27**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act to amend The Retail Sales Tax Act**

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**THE HON. A. K. MEEN**  
**Minister of Revenue**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**



## An Act to amend The Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 7 of section 2 of *The Retail Sales Tax Act*, <sup>s. 2 (7), amended</sup> being chapter 415 of the Revised Statutes of Ontario, 1970, is amended by striking out "by the Treasurer of Ontario on receipt" in the fourth and fifth lines and inserting in lieu thereof "on receipt by the Minister".
- (2) Subsection 8 of the said section 2 is repealed and the <sup>s. 2 (8), re-enacted</sup> following substituted therefor:
  - (8) Where a person has paid an amount under this Act <sup>idem</sup> as tax that is not payable as tax under this Act, such amount may be refunded upon receipt by the Minister of satisfactory evidence that the amount was wrongfully paid.
- 2.—(1) Subsection 1 of section 5 of the said Act, as amended <sup>s. 5 (1), amended</sup> by the Statutes of Ontario, 1972, chapter 21, section 1, and 1973, chapter 23, section 4, is further amended by adding thereto the following paragraphs:
  20. used clothing or used footwear or a combination thereof sold by a religious, charitable, benevolent or non-profit organization in one transaction the total consideration for which does not exceed \$50;
  21. personal hygiene and household products, as defined by the Minister, purchased for household use and not for use in any commercial, industrial or institutional establishment;
  22. footwear, as defined by the Minister, the price of which does not exceed an amount determined by the Minister.

s. 5 (1),  
par. 42,  
amended

- (2) Paragraph 42 of subsection 1 of the said section 5 is amended by striking out "and children's footwear" in the first line.

s. 7,  
amended

3. Section 7 of the said Act is amended by adding thereto the following subsection:

Idem

R.S.O. 1970,  
c. 73

(3a) Where it is shown to the satisfaction of the Minister that the tax calculated on the price of admission to a place of amusement, which is a community centre as defined in and for which aid has been granted under *The Community Centres Act*, at or in which an entertainment has been held by a municipality, was collected and paid to Her Majesty in right of Ontario in accordance with subsection 4 of section 2 and where the municipality files with the Minister a statement, verified by affidavit, giving in detail all receipts and expenses in connection with the entertainment and satisfies the Minister that the net proceeds were for the benefit of the municipality, there may be paid to the municipality an amount equal to that proportion of the tax so collected and paid which the net proceeds from admissions received by the municipality bear to the gross amount received by the municipality as the price of admission to such place of amusement.

Commence-  
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. This Act may be cited as *The Retail Sales Tax Amendment Act, 1974*.









An Act to amend  
The Retail Sales Tax Act

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*1st Reading*

April 9th, 1974

*2nd Reading*

April 11th, 1974

*3rd Reading*

April 11th, 1974

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THE HON. A. K. MEEN  
Minister of Revenue

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act to provide for the Appointment of a Commissioner to investigate Administrative Decisions and Acts of Officials of the Government of Ontario and its Agencies, and to define the Commissioner's Powers and Duties**

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**MR. SINGER**

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## BILL 28

1974

**An Act to provide for the Appointment of a Commissioner to investigate Administrative Decisions and Acts of Officials of the Government of Ontario and its Agencies, and to define the Commissioner's Powers and Duties**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. In this Act,**

Interpre-  
tation

- (a) "agency" means an agency of the Government of Ontario;
- (b) "Commissioner" means the Commissioner of the Legislature appointed under this Act;
- (c) "minister" means a member of the Executive Council;
- (d) "ministry" means a ministry of the Government of Ontario.

**2.** There shall be appointed by the Lieutenant Governor in Council on the recommendation of the Assembly as an officer of the Legislature a commissioner, to be called the Commissioner of the Legislature, who shall exercise the powers and perform the duties specified in this Act.

Appoint-  
ment

**3.** The Commissioner shall not be a member of the Assembly and shall not hold any office of trust or profit, other than his office as Commissioner, or engage in any occupation for reward outside the duties of his office.

To hold  
no other  
office

**4.—(1)** The recommendation for the appointment of the Commissioner shall be made in the first session of every Legislature.

Term of  
office

**Reappointment**

(2) Unless his office sooner becomes vacant, every person appointed as Commissioner shall hold office until his successor is appointed, and every such person may from time to time be reappointed.

**Resignation**

(3) The Commissioner may at any time resign his office by a writing addressed to the Speaker of the Assembly or, if there is no Speaker or if the Speaker is absent from Ontario, to the Clerk of the Assembly.

**Removal from office**

**5.—**(1) The Commissioner may at any time be removed or suspended from his office by the Lieutenant Governor in Council on the recommendation of the Assembly for disability, neglect of duty, misconduct or upon a bankruptcy.

**Suspension when Legislature not in session**

(2) At any time when the Legislature is not in session, the Commissioner may be suspended from his office by the Lieutenant Governor in Council for disability, neglect of duty, misconduct or upon a bankruptcy proved to the satisfaction of the Lieutenant Governor in Council, but any such suspension shall not continue in force beyond the end of the next ensuing session of the Legislature.

**Filling of vacancy**

**6.—**(1) If the Commissioner dies, retires, resigns or is removed from office, the vacancy thereby created shall be filled in accordance with this section.

**When Legislature in session**

(2) If a vacancy in the office of Commissioner occurs at any time while the Legislature is in session, it shall be filled by the appointment of a Commissioner by the Lieutenant Governor in Council on the recommendation of the Assembly, but, if the vacancy occurs less than one month before the end of that session and no such recommendation is made in that session, subsection 3 applies as if the vacancy had occurred while the Legislature was not in session.

**When Legislature not in session**

(3) If such a vacancy occurs at any time while the Legislature is not in session, the Lieutenant Governor in Council may appoint a Commissioner to fill the vacancy, and the person so appointed shall, unless his office sooner becomes vacant, hold office until his appointment is confirmed by the Assembly, and, if the appointment is not so confirmed within two months after the commencement of the next ensuing session, the appointment lapses, and there shall be deemed to be another vacancy in the office of Commissioner.

**Oath of office**

**7.—**(1) Before entering upon his duties, the Commissioner shall take an oath that he will faithfully and impartially perform the duties of his office and that he will not, except in accordance with subsection 3 of section 16, divulge any information received by him under this Act.



(2) The oath shall be administered by the Speaker of the <sup>Idem</sup> Assembly or by the Clerk of the Assembly

8.—(1) Subject to subsection 2, the Commissioner may <sup>Staff</sup> appoint such officers and employees as may be necessary for the efficient carrying out of his functions under this Act.

(2) The number of persons that may be appointed under <sup>Idem</sup> this section, whether generally or in respect of any specified duties or class of duties, shall from time to time be determined by the Lieutenant Governor in Council

9.—(1) The principal function of the Commissioner is to <sup>Functions</sup> investigate any decision or recommendation made, including any recommendation made to a minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by any ministry or agency, or by any officer, employee or member thereof in the exercise of any power or function conferred on him by any Act.

(2) The Commissioner may make any such investigation <sup>Initiation of investigation</sup> either on a complaint made to him by any person or of his own motion, and he may commence any such investigation notwithstanding that the complaint may not on its face be against any such decision, recommendation, act or omission as aforesaid.

(3) Without limiting subsection 1, any committee of the <sup>Referrals by committees</sup> Assembly may at any time refer to the Commissioner, for investigation and report by him, any petition that is before that committee for consideration or any matter to which the petition relates, and, in any such case, the Commissioner shall, subject to any special directions of the committee, investigate the matters so referred to him so far as they are within his jurisdiction and make such report to the committee as he thinks fit, but nothing in section 12, 17 or 18 applies in respect of any investigation or report made under this subsection.

(4) The powers and duties conferred on the Commissioner <sup>Powers and duties paramount</sup> by this Act may be exercised and performed notwithstanding any provision in any Act to the effect that any decision, recommendation, act or omission mentioned in subsection 1 is final, or that no appeal lies in respect thereof, or that no proceeding or decision of the person or organization whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called in question.

(5) Nothing in this Act authorizes the Commissioner to <sup>Areas outside jurisdiction</sup> investigate.

- (a) any decision, recommendation, act or omission in respect of which there is under any Act a right of appeal or objection or a right to apply for a review on the merits of the case to any court or to any tribunal constituted by or under any Act, whether or not that right of appeal or objection or application has been exercised in the particular case and whether or not any time prescribed for the exercise of that right has expired; or
- (b) any decision, recommendation, act or omission of any person acting as a solicitor for the Crown or acting as counsel for the Crown in relation to any proceedings.

**Determina-  
tion of  
jurisdiction**

(6) If any question arises as to whether the Commissioner has jurisdiction to investigate any case or class of cases under this Act, he may, if he thinks fit, apply to the Supreme Court for a declaratory order determining the question.

**Guide  
rules**

**10.—**(1) The Assembly may from time to time, if it thinks fit, make general rules for the guidance of the Commissioner in the exercise of his functions, and may at any time in like manner revoke or vary any such rules.

**Publication  
of reports**

(2) Any such rules may authorize the Commissioner from time to time, in the public interest or in the interests of any person or ministry or agency, to publish reports relating generally to the exercise of his functions under this Act or to any particular case or cases investigated by him, whether or not the matters to be dealt with in any such report have been the subject of a report to the Assembly under this Act.

**Publication  
of rules**

(3) All such rules shall be printed and published.

**Mode of  
complaint**

**11.—**(1) Every complaint to the Commissioner shall be made in writing.

**Letters  
to be  
forwarded**

(2) Notwithstanding any Act, where a letter written by any person in custody on a charge or after conviction of any offence, or by any inmate of any private sanitarium within the meaning of *The Private Sanitaria Act* or an institution within the meaning of *The Mental Hospitals Act*, is addressed to the Commissioner, it shall be immediately forwarded, unopened, to the Commissioner by the person for the time being in charge of the place or institution where the writer of the letter is detained or of which he is an inmate.

R.S.O. 1970,  
cc. 363, 269

**Commis-  
sioner may  
refuse to  
investigate  
complaint**

**12.—**(1) If in the course of the investigation of any complaint it appears to the Commissioner,

(a) that under the law or existing administrative practice there is an adequate remedy, other than the right to petition the Legislature, for the complainant, whether or not he has availed himself of it; or

(b) that, having regard to all the circumstances of the case, any further investigation is unnecessary.

he may in his discretion refuse to investigate the matter further.

(2) Without limiting the generality of the powers conferred on the Commissioner by this Act, the Commissioner may in his discretion decide not to investigate, or, as the case may require, not to further investigate, any complaint if it relates to any decision, recommendation, act or omission of which the complainant has had knowledge for more than twelve months before the complaint is received by the Commissioner, or if in his opinion,

(a) the subject-matter of the complaint is trivial

(b) the complaint is frivolous or vexatious or is not made in good faith, or

(c) the complainant has not a sufficient personal interest in the subject-matter of the complaint.

(3) In any case where the Commissioner decides not to investigate or further investigate a complaint, he shall inform the complainant of his decision, and he may, if he thinks fit, state his reasons therefor.

**13.** (1) Before investigating any matter under this Act, the Commissioner shall inform the deputy minister of the ministry affected, or, as the case may require, the administrative head of the agency affected, of his intention to make the investigation. Notice of investigation

(2) Every investigation by the Commissioner under this Act shall be conducted in private. In private

(3) The Commissioner may hear or obtain information from such persons as he thinks fit, and he may make such inquiries as he thinks fit. Information

(4) It is not necessary for the Commissioner to hold any hearing and no person is entitled as of right to be heard by the Commissioner, but, if at any time during the course of an investigation it appears to the Commissioner that there Hearings



may be sufficient grounds for his making a report or recommendation that may adversely affect any ministry, agency or person, he shall give to that ministry, agency or person an opportunity to be heard, and at any such hearing the ministry, agency or person is entitled to counsel.

**Consultations**

(5) The Commissioner may in his discretion, at any time during or after any investigation, consult any minister who is concerned in the matter of the investigation.

**Idem**

(6) On the request of any minister in relation to an investigation or in any case where an investigation relates to any recommendation made to a minister, the Commissioner shall consult that minister after making the investigation and before forming a final opinion on any of the matters referred to in subsection 1 or 2 of section 17.

**Misconduct**

(7) If, during or after any investigation, the Commissioner is of opinion that there is evidence of any breach of duty or misconduct on the part of any officer or employee of any ministry or agency, he shall refer the matter to the appropriate authority.

**Regulation of procedure**

(8) Subject to this Act and any rules made under section 10, the Commissioner may regulate his procedure in such manner as he thinks fit.

**Evidence**

**14.**—(1) Subject to this section and section 15, the Commissioner may from time to time require any person who in his opinion is able to give any information relating to any matter that is being investigated by him to furnish to him any such information and to produce any such document, paper or thing that in his opinion relates to any such matter and that may be in the possession or under the control of such person, whether or not such person is an officer, employee or member of a ministry or agency, and whether or not such document, paper or thing is in the custody or under the control of any such ministry or agency.

**Power to take evidence on oath**

(2) The Commissioner may summon before him and examine on oath,

(a) any person who is an officer or employee or member of any ministry or agency and who in the Commissioner's opinion is able to give any information mentioned in subsection 1;

(b) any complainant; or



- (c) with the prior approval of the Attorney General in each case, any other person who in the Commissioner's opinion is able to give such information,

and for that purpose may administer an oath

(3) Subject to subsection 4, no person who is bound by any Act to maintain secrecy in relation to, or not to disclose, any matter shall be required to supply any information to or answer any question put by the Commissioner in relation to that matter, or to produce to the Commissioner any document, paper or thing relating to it, if compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure. Duty to maintain secrecy paramount

(4) With the prior consent in writing of a complainant, any person to whom subsection 3 applies may be required by the Commissioner to supply information or answer any question or produce any document, paper or thing relating only to the complainant, and it is duty of the person to comply with such requirement. Idem

(5) Every person has the same privileges in relation to the giving of information, the answering of questions and the production of documents, papers and things under this Act as witnesses have in any court. Privilege

(6) Except on the trial of a person for perjury, no statement made or answer given by that or any other person in the course of any inquiry by or any proceedings before the Commissioner is admissible in evidence against any person in any court or at any inquiry or in any other proceedings, and no evidence in respect of proceedings before the Commissioner shall be given against any person. Evidence not admissible elsewhere

(7) No person is liable to prosecution for an offence against any Act by reason of his compliance with any requirement of the Commissioner under this section. No prosecution

**15.**—(1) Where the Attorney General certifies that the giving of any information or the answering of any question or the production of any document, paper or thing might involve the disclosure of, Disclosure of certain matters not to be required

(a) the deliberations of the Executive Council; or

(b) proceedings of the Executive Council, or any committee thereof, relating to matters of a secret or confidential nature, and would be injurious to the public interest.

the Commissioner shall not require the information or answer to be given or, as the case may be, the document, paper or thing to be produced, but shall report the giving of such a certificate to the Legislature.

Rule as to  
privileged  
documents,  
etc., does  
not apply

(2) Subject to subsection 1, the rule of law that authorizes or requires the withholding of any document, paper or thing, or the refusal to answer any question, on the ground that the disclosure of the document, paper or thing or the answering of the question would be injurious to the public interest, does not apply in respect of any investigation by or proceedings before the Commissioner.

Secrecy

**16.—**(1) The Commissioner and every person holding any office or appointment under him shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of their functions.

Oath

(2) Every person holding any office or appointment under the Commissioner shall, before he begins to perform his duties under this Act, take an oath, to be administered by the Commissioner, that he will not divulge any information received by him under this Act except for the purpose of giving effect to this Act.

Exception

(3) Notwithstanding subsection 1, the Commissioner may disclose in any report made by him under this Act such matters as in his opinion ought to be disclosed in order to establish grounds for his conclusions and recommendations.

Procedure  
after  
investigation

**17.—**(1) This section applies in every case where, after making any investigation under this Act, the Commissioner is of opinion that the decision, recommendation, act or omission that was the subject-matter of the investigation,

- (a) appears to have been contrary to law;
- (b) was unreasonable, unjust, oppressive, improperly discriminatory or was, in accordance with a rule of law or a provision of any Act or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory;
- (c) was based wholly or partly on a mistake of law or fact; or
- (d) was wrong.

Idem

(2) This section also applies in any case where the Commissioner is of opinion that in the making of the decision or

recommendation, or in the doing or omission of the act, a discretionary power has been exercised for an improper purpose or on irrelevant grounds or on the taking into account of irrelevant considerations, or that, in the case of a decision made in the exercise of any discretionary power, reasons should have been given for the decision.

(3) If in any case to which this section applies the Commissioner is of opinion,

*Opinion  
of the Commissioner  
is to be  
reported to  
the Ministry*

- (a) that the matter should be referred to the appropriate authority for further consideration ;
- (b) that the omission should be rectified ;
- (c) that the decision should be cancelled or varied ;
- (d) that any practice on which the decision, recommendation, act or omission was based should be altered ;
- (e) that any law on which the decision, recommendation, act or omission was based should be reconsidered ;
- (f) that reasons should have been given for the decision, or
- (g) that any other steps should be taken.

the Commissioner shall report his opinion and his reasons therefor to the appropriate minister and to the ministry or agency concerned, and may make such recommendations as he thinks fit, and in any such case he may request the ministry or agency to notify him, within a specified time, of the steps, if any, that it proposes to take to give effect to his recommendations.

(4) If within a reasonable time after the report is made no action is taken that seems to the Commissioner to be adequate and appropriate, the Commissioner, in his discretion, after considering the comments, if any, made by or on behalf of the ministry or agency affected, may send a copy of the report and recommendations to the Lieutenant Governor in Council and may thereafter make such report to the Legislature on the matter as he thinks fit.

*Report to  
Cabinet and  
Assembly*

(5) The Commissioner shall attach to every report sent or made under subsection 4 a copy of any comments made by or on behalf of the ministry or agency concerned.

*Idem*



Comment  
adverse  
to person

(6) Notwithstanding anything in this section, the Commissioner shall not, in any report made under this Act, make any comment that is adverse to any person unless the person has been given an opportunity to be heard.

Complainant  
to be  
informed of  
result of  
investigation

**18.—**(1) Where on any investigation under this Act the Commissioner makes a recommendation under subsection 3 of section 17 and no action that seems to the Commissioner to be adequate and appropriate is taken thereon within a reasonable time, the Commissioner shall inform the complainant of his recommendation and make such comments on the matter as he thinks fit.

Idem

(2) The Commissioner shall in any case inform the complainant, in such manner and at such time as he thinks proper, of the result of the investigation.

Private  
clause

**19.** No proceedings of the Commissioner shall be held bad for want of form and, except on the ground of lack of jurisdiction, no proceedings or decision of the Commissioner shall be challenged, reviewed, quashed or called in question in any court.

Proceedings  
privileged

**20.—**(1) No proceedings lie against the Commissioner or against any person holding any office or appointment under the Commissioner for anything he may do or report or say in the course of the exercise or intended exercise of his functions under this Act, unless it is shown that he acted in bad faith.

Not  
compellable  
as witnesses

(2) Neither the Commissioner nor any person holding any office or appointment under the Commissioner shall be called upon to give evidence in any court or in any proceedings of a judicial nature in respect of anything coming to his knowledge in the exercise of his functions under this Act.

Privilege

(3) Anything said or any information supplied or any document, paper or thing produced by any person in the course of any inquiry by or proceedings before the Commissioner under this Act is privileged in the same manner as if the inquiry or proceedings were proceedings in a court.

Report  
deemed  
privileged  
R.S.O. 1970,  
c. 243

(4) For the purposes of *The Libel and Slander Act*, any report made by the Commissioner under this Act shall be deemed to be privileged, and a fair and accurate report in a newspaper or a broadcast shall be deemed to be privileged.

Power  
to enter  
premises

**21.—**(1) For the purposes of this Act but subject to this section, the Commissioner may at any time enter upon any premises occupied by any ministry or agency and inspect the premises and, subject to sections 14 and 15, carry out therein any investigation that is within his jurisdiction.



(2) Before entering upon any such premises, the Commissioner shall notify the deputy minister of the ministry or, as the case may require, the administrative head of the agency that occupies the premises of his intention so to do. Notice

**22.**—(1) With the prior approval of the Lieutenant Governor in Council, the Commissioner may from time to time, by writing under his hand, delegate to any person holding any office under him any of his powers under this Act, except this power of delegation and the power to make any report under this Act. Delegation of powers

(2) Any such delegation may be made to a specified person or to the holder for the time being of a specified office or to the holders of offices of a specified class. To whom powers may be delegated

(3) Every such delegation is revocable at will, and no such delegation prevents the exercise of any power by the Commissioner. Delegations revocable

(4) Any such delegation may be made subject to such restrictions and conditions as the Commissioner thinks fit, and may be made either generally or in relation to any particular case or class of cases. Scope of delegations

(5) Until any such delegation is revoked, it continues in force according to its tenor and, in the event of the Commissioner by whom it was made ceasing to hold office, continues to have effect as if made by his successor. Life of delegations

(6) Any person purporting to exercise any power of the Commissioner by virtue of such a delegation shall, when required to do so, produce evidence of his authority to exercise the power. Evidence of delegated powers

**23.** Without limiting his right to report at any other time, but subject to subsection 6 of section 17 and to any rules made under section 10, the Commissioner shall in each year make a report to the Legislature on the exercise of his functions under this Act. Annual report

**24.** Every person commits an offence against this Act and is liable on summary conviction to a fine of not more than \$500 who, Offences

- (a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Commissioner or any other person in the exercise of his powers under this Act;

- (b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Commissioner or any other person under this Act; or
- (c) wilfully makes any false statement to or misleads or attempts to mislead the Commissioner or any other person in the exercise of his powers under this Act.

Provisions  
are in  
addition  
to other  
laws

**25.** The provisions of this Act are in addition to the provisions of any other Act or any rule of law under which any remedy or right of appeal or objection is provided for any person or any procedure is provided for the inquiry into or investigation of any matter, and nothing in this Act limits or affects any such remedy or right of appeal or objection or procedure.

Short title

**26.** This Act may be cited as *The Commissioner of the Legislature Act, 1974*.



An Act to provide for the Appointment  
of a Commissioner to investigate Admin-  
istrative Decisions and Acts of Officials of  
the Government of Ontario and its Agencies,  
and to define the Commissioner's Powers  
and Duties

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*1st Reading*

April 16th, 1974

*2nd Reading*

*3rd Reading*

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MR. SINGER

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*(Private Member's Bill)*



**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act to amend The Business Corporations Act**

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**MR. ROY**

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#### EXPLANATORY NOTE

The purpose of this Bill is to prevent corporations from forcing persons to submit their finger prints in exchange for the right to shop at stores owned by the corporation.

## An Act to amend The Business Corporations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Business Corporations Act*, being chapter 53 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following sections:

20a.—(1) Subject to subsection 2, no corporation shall require a person to submit a finger print as part of a contract for goods or services supplied by the corporation.

(2) A corporation may require a finger print to be submitted by a person where,

(a) payment for the goods and services supplied by the corporation is to be by means of a cheque; and

(b) the person is not able to supply any other form of identification other than a finger print.

(3) Where a finger print is required under subsection 2, the corporation requiring the finger print shall post a sign on the outside or entrance way to the corporation sufficient to notify a person before he begins to contract for goods or services that a finger print may be required.

20b.—(1) Where a finger print is submitted under subsection 2 of section 20a, the finger print shall be used only to verify the identification of the person submitting the finger print and shall be returned to that person after the verification has been made.

(2) No copy either by photocopying, Xerox or any other means of copying shall be made of a finger print submitted under subsection 2 of section 20a.

2. This Act comes into force on the day it receives Royal Assent.

3. This Act may be cited as *The Business Corporations Amendment Act, 1974*.

An Act to amend  
The Business Corporations Act

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*1st Reading*

April 16th, 1974

*2nd Reading*

*3rd Reading*

---

MR. ROY

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*(Private Member's Bill)*



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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act to prevent the  
Investment of Funds obtained Unlawfully**

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**MR. SHULMAN**

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**TORONTO**

**PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO**

#### EXPLANATORY NOTE

The purpose of the Bill is to prevent the investment in Ontario by or under the control of persons engaged in unlawful activities of the unlawful proceeds and to prevent the "laundering" of unlawful proceeds to obscure its source.

BILL 30

1974

## An Act to prevent the Investment of Funds obtained Unlawfully

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-  
tation

(a) "funds" includes money and securities as defined in *The Securities Act*;

R.S.O. 1970,  
c. 426

(b) "trade" means trade as defined in *The Securities Act*;

(c) "unlawful activity" means,

(i) an act or omission that is an offence under the *Criminal Code* (Canada), or

R.S.C. 1970,  
c. C-34

(ii) an act or omission anywhere outside Canada that, if it had occurred in Canada, would be punishable as an offence under the *Criminal Code* (Canada).

2.—(1) No person shall, as principal, agent or trustee, knowingly invest, receive for investment or trade in any funds obtained as the result of an unlawful activity.

Use of  
unlawful  
proceeds

(2) No person shall knowingly be a party to any transaction having as one of its purposes the passing of funds obtained as the result of an unlawful activity through any agent, depository or trustee for the purpose of obscuring its source.

"Laundering"  
prohibited

(3) Where funds obtained as the result of an unlawful activity is converted into any other form of funds or has become mingled with other funds in the hands of or to the account of the same person, this Act applies to any

Conversion  
to other  
forms

such other form of funds and to all the funds that are so mingled.

Offence

**3.** Every person who is in contravention of this Act is guilty of an offence and on summary conviction is liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding six months, or to both.

Commence-  
ment

**4.** This Act comes into force on the day it receives Royal Assent.

Short title

**5.** This Act may be cited as *The Unlawful Funds Investment Act, 1974*.









An Act to prevent the  
Investment of Funds obtained  
Unlawfully

---

*1st Reading*

April 18th, 1974

*2nd Reading*

*3rd Reading*

---

MR. SHULMAN

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*(Private Member's Bill)*

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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**An Act to provide for the Annexation of  
certain Lands to the City of Cornwall**

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**THE HON. J. WHITE**  
Treasurer of Ontario and Minister of Economics  
and Intergovernmental Affairs

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#### EXPLANATORY NOTE

The Bill provides for the annexation of a portion of the Township of Cornwall (comprising an area of 62.27 acres) to the City of Cornwall to provide for an industrial site. The Bill further provides that the annexed lands and certain adjoining lands in the City of Cornwall be zoned for industrial purposes.

BILL 31

1974

## An Act to provide for the Annexation of certain Lands to the City of Cornwall

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The portion of the Township of Cornwall described in Schedule A hereto is hereby annexed to the City of Cornwall.

Portion of  
Township of  
Cornwall  
annexed to  
the City of  
Cornwall

2. For the purposes of every Act, the annexation provided for in section 1 shall be deemed to have been effected by order of the Ontario Municipal Board, not subject to section 42 of *The Ontario Municipal Board Act* or to petition or appeal under section 94 or 95 of such Act, made on the day this Act comes into force pursuant to application made under section 14 of *The Municipal Act*, and the Ontario Municipal Board upon the application of the City of Cornwall or the Township of Cornwall or any local board thereof or of its own motion may exercise its powers consequent upon such annexation and sections 94 and 95 of *The Ontario Municipal Board Act* do not apply to decisions or orders made in the exercise of such powers.

Annexation  
deemed by  
Ontario  
Municipal  
Board  
orders  
R.S.O. 1970,  
c. 323, 284

3.—(1) Notwithstanding the provisions of any official plan or any by-law passed under section 35 of *The Planning Act*, the land described in Schedules A and B hereto, shall be deemed to be zoned for industrial purposes.

Lands deemed  
zoned  
Industrial  
R.S.O. 1970,  
c. 349

(2) Nothing in this Act derogates from the powers conferred upon the Minister under clause a of subsection 1 of section 32 of *The Planning Act*.

Non applica-  
tion of Act  
to  
R.S.O. 1970,  
c. 342  
s. 32 (1) (a)

4. This Act comes into force on the 1st day of May, 1974.

Commence-  
ment

5. This Act may be cited as *The City of Cornwall Annexation Act, 1974*.

Short title

## SCHEDULE A

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the Township of Cornwall in the County of Stormont and being composed of the whole of Block B according to a plan registered in the land registry office for the Registry Division of Stormont (No. 52) as No. 293.

## SCHEDULE B

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Cornwall (formerly in the Township of Cornwall) in the County of Stormont and being composed of the whole of Block C according to a plan registered in the land registry office for the Registry Division of Stormont (No. 52) as No. 293.









An Act to provide for the  
Annexation of certain Lands  
to the City of Cornwall

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*1st Reading*

April 19th, 1974

*2nd Reading*

*3rd Reading*

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THE HON. J. WHITE  
Treasurer of Ontario and Minister of  
Economics and Intergovernmental  
Affairs

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*(Government Bill)*

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# **BILL 31**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act to provide for the Annexation of certain Lands to the City of Cornwall**

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**THE HON. J. WHITE**  
**Treasurer of Ontario and Minister of Economics  
and Intergovernmental Affairs**

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## BILL 31

1974

## An Act to provide for the Annexation of certain Lands to the City of Cornwall

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The portion of the Township of Cornwall described in Schedule A hereto is hereby annexed to the City of Cornwall.

Portion of Township of Cornwall annexed to the City of Cornwall

2. For the purposes of every Act, the annexation provided for in section 1 shall be deemed to have been effected by order of the Ontario Municipal Board, not subject to section 42 of *The Ontario Municipal Board Act* or to petition or appeal under section 94 or 95 of such Act, made on the day this Act comes into force pursuant to application made under section 14 of *The Municipal Act*, and the Ontario Municipal Board upon the application of the City of Cornwall or the Township of Cornwall or any local board thereof or of its own motion may exercise its powers consequent upon such annexation and sections 94 and 95 of *The Ontario Municipal Board Act* do not apply to decisions or orders made in the exercise of such powers.

Annexation deemed by Ontario Municipal Board orders R.S.O. 1970 c. 322, 284

3.—(1) Notwithstanding the provisions of any official plan or any by-law passed under section 35 of *The Planning Act*, the land described in Schedules A and B hereto, shall be deemed to be zoned for industrial purposes.

Lands deemed zoned industrial R.S.O. 1970 c. 349

(2) Nothing in this Act derogates from the powers conferred upon the Minister under clause a of subsection 1 of section 32 of *The Planning Act*.

Non-application of Act to R.S.O. 1970, c. 349, s. 32 (1) (a)

4. This Act comes into force on the 1st day of May, 1974.

Commencement

5. This Act may be cited as *The City of Cornwall Annexation Act, 1974*.

Short title

## SCHEDULE A

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the Township of Cornwall in the County of Stormont and being composed of the whole of Block B according to a plan registered in the land registry office for the Registry Division of Stormont (No. 52) as No. 293.

## SCHEDULE B

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Cornwall (formerly in the Township of Cornwall) in the County of Stormont and being composed of the whole of Block C according to a plan registered in the land registry office for the Registry Division of Stormont (No. 52) as No. 293.









An Act to provide for the  
Annexation of certain Lands  
to the City of Cornwall

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*1st Reading*

April 19th, 1974

*2nd Reading*

April 29th, 1974

*3rd Reading*

April 29th, 1974

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THE HON. J. WHITE  
Treasurer of Ontario and Minister of  
Economics and Intergovernmental  
Affairs

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act to regulate the Proceedings of the House**

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**MR. SHULMAN**

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EXPLANATORY NOTE

Self-explanatory.

## An Act to regulate the Proceedings of the House

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. From now until the first of June all speeches shall be sung in tune. The Speaker shall determine which honourable members are in tune. Commencement and rule for House

2. When in committee of supply, the House may hum, but not too high. The Clerk shall choose the key. Supply Committee

3. A band shall nearly always play except on the first day, behind the Speaker's chair at 3.00 and on the terrace after tea. Band, playing of

4. The House shall never sit on sunny days, unless there is a thick haze. And they shall rise if they have met, when its foggy, fine or wet. When House shall sit

5. Except as hereinafter hinted, Hansard shall not again be printed and save as in this Act is learned all previous Hansards shall be burned. Cessation of Hansard

6. The Honourable Treasurer shall now proceed to Rome, to Moscow, Washington, Cathay or anywhere that's far away. Procedure for Treasurer

7. The penalty for each offence shall be elastic but immense. Offence

8. Finally this act applies and shall be good for any body who thinks it should, provided that if strong objection shall be expressed to any section, that section shall not have effect except for those who don't object. Application of Act

9. This Act may be cited as *The A. P. Herbert Bill* Short title  
*To Regulate The Proceedings of The House.*

An Act to Regulate The  
Proceedings of the House, known  
as the A. P. Herbert Bill, 1974

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*1st Reading*

April 19th, 1974

*2nd Reading*

*3rd Reading*

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MR. SHULMAN

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*(Private Member's Bill)*

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act to amend  
The Ontario Educational Communications Authority Act**

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THE HON. J. A. C. AULD  
Minister of Colleges and Universities

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#### EXPLANATORY NOTE

This amendment removes the requirement that not fewer than three or more than four members of the Board of Directors of the Authority be civil servants.

BILL 33

1974

**An Act to amend  
The Ontario Educational Communications  
Authority Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 2 of *The Ontario Educational Communications Authority Act*, being chapter 311 of the Revised Statutes of Ontario, 1970, is amended by striking out "and of the remaining twelve members, not fewer than three and not more than four shall be members of the public service of Ontario" in the third, fourth, fifth and sixth lines and inserting in lieu thereof "and no members shall be civil servants". s. 2 (1),  
amended
2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. This Act may be cited as *The Ontario Educational Communications Authority Amendment Act, 1974*. Short title

An Act to amend The Ontario  
Educational Communications  
Authority Act

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*1st Reading*

April 22nd, 1974

*2nd Reading*

*3rd Reading*

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THE HON. J. A. C. AULD  
Minister of Colleges and Universities

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*(Government Bill)*



# **BILL 33**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act to amend The Ontario Educational Communications Authority Act**

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**THE HON. J. A. C. AULD**  
Minister of Colleges and Universities

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BILL 33

1974

**An Act to amend  
The Ontario Educational Communications  
Authority Act**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 2 of *The Ontario Educational Com-* <sup>s. 2 (1),</sup>  
*munications Authority Act*, being chapter 311 of the Revised <sup>amended</sup>  
Statutes of Ontario, 1970, is amended by striking out  
"and of the remaining twelve members, not fewer than  
three and not more than four shall be members of the  
public service of Ontario" in the third, fourth, fifth and  
sixth lines and inserting in lieu thereof "and no members  
shall be civil servants".
2. This Act comes into force on the day it receives Royal <sup>Commence-</sup>  
Assent. <sup>ment</sup>
3. This Act may be cited as *The Ontario Educational Com-* <sup>Short title</sup>  
*munications Authority Amendment Act, 1974*.

An Act to amend The Ontario  
Educational Communications  
Authority Act

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*1st Reading*

April 22nd, 1974

*2nd Reading*

May 7th, 1974

*3rd Reading*

May 7th, 1974

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THE HON. J. A. C. AULD  
Minister of Colleges and Universities

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4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974

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**An Act to amend  
The Master and Fellows of Massey College Act, 1960-61**

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**THE HON. J. A. C. AULD**  
Minister of Colleges and Universities

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#### EXPLANATORY NOTE

This amendment would allow a student, either male or female, who is a graduate student studying for a further degree at the University of Toronto to be a resident of Massey College.

**An Act to amend  
The Master and Fellows of Massey College Act,  
1960-61**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of section 5 of *The Master and Fellows of Massey College Act, 1960-61*, being chapter 53, is repealed and the following substituted therefor:

(a) to maintain a hall of residence to be known as Massey College, for the Junior Fellows of the Corporation who shall be students who have already acquired degrees and are studying for further degrees at the University of Toronto; and

2. This Act comes into force on the day it receives Royal Assent.
3. This Act may be cited as *The Master and Fellows of Massey College Amendment Act, 1974*.

An Act to amend The Master and  
Fellows of Massey College Act,  
1960-61

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*1st Reading*

April 22nd, 1974

*2nd Reading*

*3rd Reading*

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THE HON. J. A. C. AULD  
Minister of Colleges and Universities

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*(Government Bill)*

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# **BILL 34**

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**4TH SESSION, 29TH LEGISLATURE, ONTARIO  
23 ELIZABETH II, 1974**

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## **An Act to amend The Master and Fellows of Massey College Act, 1960-61**

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**THE HON. J. A. C. AULD**  
Minister of Colleges and Universities

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BILL 34

1974

**An Act to amend  
The Master and Fellows of Massey College Act,  
1960-61**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of section 5 of *The Master and Fellows of Massey College Act, 1960-61*, being chapter 53, is repealed and the following substituted therefor: s. 5 (a).  
re-enacted

(a) to maintain a hall of residence to be known as Massey College, for the Junior Fellows of the Corporation who shall be students who have already acquired degrees and are studying for further degrees at the University of Toronto; and

2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. This Act may be cited as *The Master and Fellows of Massey College Amendment Act, 1974*. Short title

An Act to amend The Master and  
Fellows of Massey College Act,  
1960-61

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*1st Reading*

April 22nd, 1974

*2nd Reading*

May 7th, 1974

*3rd Reading*

May 7th, 1974

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THE HON. J. A. C. AULD  
Minister of Colleges and Universities

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